

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE.

The meeting was called to order by Chairperson Jim Morrison at 1:32 p.m. on February 13, 2003, in Room 243-N of the Capitol.

All members were present except Representatives Landwehr, Patterson, and Holland, all of whom were excused.

Committee staff present:

Bill Wolff, Legislative Research Department
Rena Jefferies, Revisor of Statutes' Office
Gary Deeter, Committee Secretary

Conferees appearing before the committee:

Cindy Galemore, BSN, RN MSED, NCSN, Coordinator of Health Services, USD 233 Olathe
Luann Nauman, RN, Kansas State Nursing Association
Mike Johnston, Executive Director, National Pharmacy Technician Association
Bob Williams, Executive Director, Kansas Pharmacists Association
Merlin McFarland, Pharmacy Member, Kansas State Board of Pharmacy
Dan Upton, Public Member, Kansas State Board of Pharmacy
Deborah Stern, Vice President of Clinical and Quality Services, Kansas Hospital Association
Marla Rhoden, Director, Health Occupations Credentialing, Kansas Department of Health and Environment

Others attending: See Guest List.

The Chair welcomed members of the Kansas State Nurses Association.

A motion was made, seconded, and passed to approve the minutes for February 11, 2003.

Representative DeCastro chaired the hearing on **HCR 5008**. She welcomed Cindy Galemore, BSN, RN MSED, NCSN, Coordinator of Health Services, USD 233, Olathe Schools, who spoke in support of the resolution. (Attachment 1) She told personal stories of dealing with possible epidemics and other emergency situations in public schools. She listed the extensive training required of school nurses, preparing them for a variety of exigencies. She said school nurses are well positioned to recognize and respond appropriately to all kinds of emergencies. Members expressed concern about the possible use of Nurse Assistants. Ms. Galemore said most schools would be staffed by an RN.

Luann Nauman, RN, representing the Kansas State Nursing Association, testified that school nurses are the only clinically and educationally prepared health-care providers to meet emergency situations in a school system. (Attachment 2)

David Lake, Administrator, Kansas Board of Emergency Medical Services, submitted Attachment 3 in support of **HCR 5008**. The Chair noted a list of those who had submitted written testimony in support of

CONTINUATION SHEET

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE at on February 13, 2003, in Room 243-N of the Capitol.

the resolution. ([Attachment 4](#))

The hearing on **HCR 5008** was closed.

Chairing the hearing for **HB 2207**, Representative Storm called attention to a fiscal note submitted by Duane Goosen, Director, Division of the Budget.. ([Attachment 5](#)) Mike Johnston, Executive Director, National Pharmacy Technician Association, stated that the national organization had expressed overwhelming support for registration of technicians in Kansas. ([Attachment 6](#)) He noted that many Kansas technicians were already nationally certified. Answering a question, he said that there is a national exam for technicians, but it was not a part of the present legislation.

Bob Williams, Executive Director, Kansas Pharmacist Association, testified that **HB 2207** would enable the Kansas State Board of Pharmacy to require pharmacy technicians to register with the Board and pass an exam, creating a tracking registry that would improve competence and track technicians who diverted drugs for their own use. ([Attachment 7](#)) He said the legislature had advised the Pharmacy Board to go through the credentialing process provided by Kansas Department of Health and Environment (KDHE), which the Board did; ultimately the Board failed to meet KDHE criteria and the application was denied. Nevertheless, Mr. Williams asserted that the Board could make a strong case for registration of technicians. He included in his testimony the rationale of the Board of Pharmacy. ([Attachment 8](#))

Merlin McFarland, a Registered Pharmacist and member of the State Board of Pharmacy, said registration was needed to track incompetent or thieving technicians, who, when fired, often find work at another pharmacy. ([Attachment 9](#)) Dan Upson, a public member of the Board, also spoke in support of the bill, saying registration of technicians would better protect the public. ([Attachment 10](#)) Both noted that drug diversion is a problem; registration would give the Board statutory authority to track technicians, which at present the Board does not have. Mr. McFarland said two years ago the Board tried to create rules and regulations to track technicians, but was denied authority by the Kansas Attorney General. At that point the Board began the credentialing process, but was denied registration because it could not produce adequate information to show clear and present harm. Board members noted the Catch-22 situation: They could not verify incompetence and thievery without a registry, and thus were denied registration because they could not present evidence that could be obtained only with a registry.

Deborah Stern, Vice President of Clinical and Quality Services, Kansas Hospital Association, spoke in favor of registration, saying the Pharmacy Board needed oversight for incompetent technicians and those engaged in illegal activities, especially in hospital settings. ([Attachment 11](#)) She said that rarely is there a simple solution for a complex problem, but the present bill seemed to be such.

Marla Rhoden, Director, Health Occupations Credentialing, KDHE, said that through the credentialing process the Pharmacy Board never documented the potential for harm in the present practice of pharmacy. ([Attachment 12](#)) Further, she said that presently pharmacy technicians have no codified body of knowledge, another credentialing requirement. She noted that the Board could require technicians to pass

CONTINUATION SHEET

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE at on February 13, 2003, in Room 243-N of the Capitol.

the national exam or could have addressed the deficiencies of the report denying them registration, but they chose to do neither.

Representative Scott Schwab spoke in support of the bill, saying that the present lack of oversight allows a technician to abuse the system. (Attachment 13)

The Chair closed the hearing on **HB 2207** and returned the microphone to Chairman Morrison, who announced that the briefing on **HB 2169** would be postponed until Monday and that the hearing on **HB 2115** would be postponed indefinitely.

The meeting was adjourned at 2:55 p.m. The next meeting is scheduled for Monday, February 17, at 1:30 p.m.

**HOUSE HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST**

DATE: FEBRUARY 13 2003

NAME	REPRESENTING
MIKE JOHNSTON	NATIONAL PHARMACY TECH. ASSOC.
Lu Ann Nauman	Kansas State Nurses Association
Jenny Stauffer	KMS
Marla Rhoden	KDHE/HOC
Bob Williams	KS Pharmacists Assoc
NANCY CORKINS	KS PHARM. ASSN./DILLONS
Jonathan Brunswig	KS Pharm Assn
DEBORAH STERN	KS. HOSP. ASSOC.
Ryan Schlink	KS Pharmacists Assoc.
Chip Wheelen	Assn of Osteo. Med.
Lisa Wilson	Kansas State Nurses Assoc.
Delen Halenbeck	Kansas State Nurses Assoc day @ legislature
Mary Blubaugh	KSBN
Tronica Mayer	SRS
Yvonne East	KSNA Day at the Legislature
Dodie Wellshear Johnson	KS Academy of Family Physicians
MARGARITA MARTIN (BDSN)	BAKER UNIV. SCHOOL OF NURSING
Kean Edington	Baker Nursing School
Lori Finkler	Bethel College Nursing



February 5, 2003

Dear Members Kansas House of Representatives Health Committee,

I am writing in support of resolution 5008 introduced by Representative Willa DeCastro. In my role as Coordinator of Health Services for Olathe District Schools, I have become increasingly aware of the potential for children to be a target of bio-terrorist activity. Even before bio-terrorism was in the forefront of the news, we realized that 1/4 of the citizens of our community (25,000) were in our care from 8:00 a.m. to 4:00 p.m. every weekday.

I also serve as the Representative from Kansas to the National Association of School Nurses, an association with approximately 12,000 members. In June 2002, a position statement was authored by the association (www.NASN.org) titled "School Nurse Role in Bioterrorism Emergency Preparedness." According to this position statement, school nurses are indeed "front line responders" within school environments as they are often the only professional health care provider on site and with their skills and roles bring the following to emergency preparedness:

- Surveillance and pattern recognition
- Ability to assess potential emergency risks
- Ability to assess the adequacy of emergency trainings and practice activities
- Position on the front line when an emergency occurs and involvement in the response to all serious adverse events that threaten the health, safety, or well-being of a school and its community
- Possession of detailed knowledge of the needs of children with special health care needs and the ability to plan for these students' needs in emergency situations
- Ability to assist in the short-term and long-term recovery phase after a traumatic event has occurred

In the event a biological or chemical attack occurs, school nurses - ideally positioned one nurse to every school - will be among the first to recognize the event and respond appropriately. Indeed, school nurses need to be recognized in this role, given the authority to act as first responders, and trained in protection, detection, and treatment of victims, as well as trained in coordination with other community providers. All of the above could dramatically minimize the number of victims and possibly slow the spread of a biological agent in the event of a bioterrorist attack.

I urge you to support this resolution.

Sincerely,

Cindy Galembre BSN, RN, MSED, NCSN

Cindy Galembre BSN, RN, MSED, NCSN (Nationally Certified School Nurse)
Coordinator of Health Services

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A Hachment /

HHS 2-13-03

*For More Information Contact:
Terri Roberts J.D., R.N.
785.233.8638 troberts@ksna.net
February 11, 2003*

HCR 5008 SCHOOL NURSES AS FIRST RESPONDERS

Chairperson Morrison and members of the House Health and Human Services Committee, my name is Lu Ann Nauman, M.S.N., R.N.. Based on a good many years of experience working with and observing the health needs of school age children and youth in Kansas, I, as representative for the KANSAS STATE NURSES ASSOCIATION (KSNA) support HCR 5008.

School nurses are the only clinically prepared health care providers in a school system. Educationally, they are prepared broadly to meet many health care needs of children, youth, faculty and staff in the school setting. The school nurse should always be designated as the first responder, especially in the aftermath of Sept. 11, 2001 attacks and the subsequent threat of bio-terrorism as well as chemical warfare. Additionally, the registered nurse should be expected to take a leadership role in the development of school policies and procedures related to such things as disaster planning. Further, he/she should be supported to expand into the community setting with a lead role toward integration of the school system in disaster planning for the larger community related to bio-terrorism and chemical warfare.

Interestingly, there are no state laws or regulations that even require the school nurse in Kansas to be certified in CPR or First Aid. In fact, the state does not require that a school district hire a school nurse. So, while nurses who do work in the school setting should clearly be designated as first responders in the wake of local, regional and/or national emergencies, all too many school systems in Kansas would be left out of the picture as a number of them are not served by licensed nurses. As the Director of Nursing Services and Health Education for over 20 years with my tenure in this position ending not quite 5 years ago, my recommendation would be to not only strongly support this resolution but to take a look at even more basic things like making certain every school district has a school nurse to actually designate as first responder and that he/she is not only well prepared to deal with such things as anthrax and other potentially lethal biological and chemical substances but that the nurse also be required to have CPR certification.

If Kansas is really interested in protecting school age children and youth, school personnel and, more broadly, assist in protection of the community, the school nurse as first responder needs basic preparation as well as leadership responsibilities in planning and implementing all of those things that can save lives from bio-terrorism attacks to preventing death by knowing basic first aid and CPR. This would require that every school district employ a school nurse, certainly a goal that should be sought.

Thank you for this opportunity to present testimony on this concurrent resolution.

*Attachment 2
HHS 2-13-03*



KANSAS

DAVID LAKE, ADMINISTRATOR

KATHLEEN SEBELIUS, GOVERNOR
DENNIS ALLIN, M.D., CHAIR

KANSAS BOARD OF EMERGENCY MEDICAL SERVICES

February 12, 2003

TO: Representative Jim Morrison, Chair and Committee members, House Health and Human Services Committee

FROM: David Lake, Administrator, Kansas Board of Emergency Medical Services

A handwritten signature in cursive script that reads "David Lake".

RE: Proponent testimony for HCR 5008

Mr. Chairman and members of the Health and Human Services Committee, thank you for the opportunity to provide this testimony in favor of HCR 5008. Kansas has been very pro-active in assessing risk and preparing for an incident involving weapons of mass destruction, as well as natural disasters. What they have in common is the potential for adverse effect on mass victims, medically, traumatically, and psychologically. When this occurs, the more people trained to respond and care for the victims greatly reduces the possibility of unnecessary long-term effect.

Public gathering places, especially our schools, are potential targets because of the increased numbers in a relatively confined area. Our youth, the students, may be our greatest resource for the future. School nurses trained and prepared to respond to an incident will most likely mitigate the incident.

I must add that the use of the term "First Responder" as used in this resolution does not refer to the Kansas Board of Emergency Medical Services "First Responder" level of certification.

I encourage you to act favorably on this resolution. I will be glad to respond to any questions, comments, or concerns you may have.

WILLA DECASTRO
REPRESENTATIVE 96TH DISTRICT



TOPEKA
HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: HEALTH & HUMAN SERVICES
JUDICIARY
K-12 EDUCATION

February 12, 2003

Representative Jim Morrison, Chairman
Members of Health and Human Services Committee

I have received letters of support for HCR 5008 recognizing school nurses as first responders. Copies of letters are available. Their names are as follows:

Cindy Galemore
BSN, RN, MSED, NCSN, Coordinator of Health Services USD #233, Olathe

Helen L. White
RN, NCSN (Ret.)

Jean Higbie
RN, BSN, CHANP certified nurse, Kansas School Nurses Organization

Sharon McBride
Health Services and Safety Resource Specialist, Shawnee Mission School
District #512, Shawnee Mission

Mae Claxton
RN, Kansas School for the Blind, Kansas City

Kara Erickson
RN, BSN, MS, Shawnee Mission School District #512, Shawnee Mission

Michael A. Blumm, Pediatrician
DO, FAAP, Overland Park

Dr. Bob Hull
Assistant Superintendent Olathe District Schools USD #233, Olathe

Cindy Clayton
Director Health, Safety & Youth Services, American Red Cross, Wichita

Cindy A.L. Burbach
RN, DrPH, Director of Health Surveillance & Disease Prevention, Sedgwick
County Health Department, Wichita

Respectfully,

Representative Willa DeCastro

Attachment 4
HHS 2-13-03



KANSAS

DIVISION OF THE BUDGET
DUANE A. GOOSSEN, DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

February 11, 2003

The Honorable Jim Morrison, Chairperson
House Committee on Health and Human Services
Statehouse, Room 171-W
Topeka, Kansas 66612

Dear Representative Morrison:

SUBJECT: Fiscal Note for HB 2207 by House Committee on Health and Human Services

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2207 is respectfully submitted to your committee.

HB 2207 would require pharmacy technicians to be registered with the Board of Pharmacy. The bill would also require that applicants for registration pass an examination approved by the Board. The bill would set a maximum initial registration fee of \$50 and a maximum renewal fee of \$25. Pharmacy technicians who are employed on the effective date of the act would have until October 31, 2004, to pass the examination and register. All pharmacy technician registrations would expire on October 31 of the year set by the Board. The Board would be allowed to require a physical or mental examination, or both, for registration. The Board could use the same grounds for denial of an application for issuance or renewal of pharmacy technician registration as it uses for pharmacists. Registered pharmacy technicians would be required to supply the name and address of a new employer within 30 days of obtaining new employment. Pharmacies would be required, as they currently are, to maintain a list of pharmacy technicians employed and post in a conspicuous place the names of pharmacy technicians currently on duty. The Board could set the allowable ratio of pharmacy technicians to pharmacists, not to exceed two to one.

Estimated State Fiscal Effect				
	FY 2003 SGF	FY 2003 All Funds	FY 2004 SGF	FY 2004 All Funds
Revenue	--	--	\$12,000	\$60,000
Expenditure	--	--	--	\$19,700
FTE Pos.	--	--	--	--

The Board of Pharmacy states that it currently has approximately 3,000 individuals listed as pharmacy technicians. The Board anticipates an initial registration and renewal fee of \$20 per year. Therefore, additional annual income to the Board of Pharmacy Fee Fund would be \$48,000 (\$60,000 X 80%). Additional annual revenue to the State General Fund would be \$12,000 (\$60,000 X 20%).

The Board estimates a one-time cost of \$4,500 to purchase a new computer and printer and to update the pharmacy database. Additional annual costs would be \$15,200, which includes \$12,500 for one part-time non-FTE employee, \$1,500 for registration cards, printing and postage, and \$1,200 for newsletter printing and postage.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Susan Linn, Pharmacy



nician Association
uite 380

Representative Jim Morrison
Chair
Health and Human Service Committee

RE: Pharmacy Technician Registration

My name is Mike Johnston, CPhT, and I am the Executive Director of the National Pharmacy Technician Association [NPTA]. I appreciate the opportunity to address the Committee regarding HB 2207, the Pharmacy Technician Registration Bill.

NPTA is the leading professional association for pharmacy technicians in the United States; we represent approximately 25,000 pharmacy technicians. Our organization currently represents over 240 pharmacy technicians practicing in Kansas; it is for this reason, our members in Kansas, that our organization wishes to address House Bill 2207.

The National Pharmacy Technician Association fully supports this bill and urges this Committee to approve it, allowing it to return to the House for approval. This bill will promote safer pharmaceutical care; it will provide the State Board of Pharmacy with needed authority to handle medication errors and drug diversion.

The State Board of Pharmacy worked closely with our organization as this bill was drafted, and they continue to work with us, respecting the opinions and viewpoints of the pharmacy technicians. House Bill 2207 has the support of the pharmacy technicians in Kansas, and therefore the full support of our organization.

I personally called many of our members, explained this new bill and sought their input. The response was overwhelmingly supportive. Brian Dillner is a certified pharmacy technician who works at an independent pharmacy in Beloit; he has worked in pharmacy for over thirty years. Brian feels that pharmacy technicians need to be held accountable for their actions and that this legislation would grant the State Board of Pharmacy the proper authority to do so.

Althea Sicard is a certified pharmacy technician who has worked in retail pharmacy for six years in Concordia. Her employer recently hired a new employee with no pharmacy experience to work as a pharmacy technician; this practice concerns Althea, she feels that pharmacies should not be hiring 'just anyone off the streets.' She strongly supports the proposed requirement for the State Board of Pharmacy to require a 'board-approved' competency based exam as a part of registration.

Technicians who are not currently certified support House Bill 2207, also. Barbara Lundquist works at a Wal-Mart pharmacy in Lindsborg; she has worked in pharmacy for over twelve years, but she is not certified. Upon hearing about House Bill 2207, Barbara said that she felt it was a "great idea," and that she "would definitely support it."

The pharmacy technicians in Kansas understand the importance of this bill and support it. The National Pharmacy Technician Association fully supports House Bill 2007, and we ask that you support it, as well.

Attachment 6
HHS 2-13-03

Kansas Pharmacists Association

1020 SW Fairlawn Rd.

Topeka KS 66604

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Robert R. Williams, Executive Director

TESTIMONY

House Health and Human Services Committee

February 13, 2003

HB 2207

My name is Bob Williams. I am the Executive Director of the Kansas Pharmacists Association. Thank you for this opportunity to address the Committee regarding HB 2207.

House Bill 2207 requires all pharmacy technicians to register with the State Board of Pharmacy and requires them to pass an exam approved by the Board.

The Kansas Pharmacists Association and the Kansas State Board of Pharmacy have been dealing with the pharmacy technician issue for many years. In 2001 we came before the Kansas Legislature and asked for legislation which would create a "registry". We were instructed to go through the Kansas Department of Health and Environment credentialing process, which we did. After a year of research, task force meetings and hearings before the KDHE credentialing committee, we were notified on June 19, 2002 our application was denied. The credentialing process requires the profession to meet nine criteria. According to KDHE, only five of the nine criteria were met and they therefore concluded "...insufficient evidence was presented to warrant credentialing of the profession to protect the public from undocumented harm ...". Despite the conclusion drawn by the KDHE credentialing committee, KPhA believes the State Board of Pharmacy presented a compelling case for registration of pharmacy technicians.

In October, 2002, the Kansas City Star ran a series of articles on the pharmacy profession. The series of articles included a feature on pharmacy technicians and built a strong case for state oversight of pharmacy technicians. Kansas is only one of 17 states that do not have some form of credentialing for pharmacy technicians. Missouri began registering technicians in 1997 and has a list of disqualified pharmacy technicians posted on its Web site. By contrast, in Kansas a member of the KU School of Pharmacy faculty mailed a survey to 3089 pharmacy technicians who were listed with the Kansas State Board of Pharmacy, 1030 were returned as undeliverable. The practice of pharmacy and the role of pharmacy technicians has changed dramatically over the past decade.

KPhA and the State Board of Pharmacy have made every effort to update the Kansas Pharmacy Act to take into account changes within the pharmacy profession. Registration of pharmacy technicians is a policy whose time has come.

In regards to moving the pharmacy/technician ratio from statute to regulation, the pharmacy profession is rapidly changing, placing the pharmacist/technician ratio in regulation will allow the State Board of Pharmacy to more quickly respond to these changes. The State Board of Pharmacy currently determines the training requirements for pharmacy technicians by rule and regulation. It follows that the State Board of Pharmacy be permitted to determine the pharmacist/technician ratio by regulation as well.

We encourage the Committee to support HB 2207.

Thank you.

**WHY THE KANSAS BOARD OF PHARMACY
BELIEVES LEGISLATION SHOULD BE ENACTED
PROVIDING FOR THE REGISTRATION OF PHARMACY TECHNICIANS**

- The professionals who comprise the Kansas Board of Pharmacy believe that to appropriately protect the citizens of Kansas, Pharmacy Technicians must be regulated through registration.
- The Kansas Pharmacy Association supports the Board's request for legislation requiring the registration of Pharmacy Technicians.
- The members of the Kansas Board of Pharmacy and the pharmacist members of the Kansas Pharmacy Association have no motive to seek legislation requiring the registration of Pharmacy Technicians other than to protect the citizens who are patients and customers of Kansas pharmacies.
- The National Association of Pharmacy Board, after significant study, has recommended that to protect the public health, Pharmacy Technicians should be regulated.
- There is existing and developing proof that a significant number of errors committed by Pharmacy Technicians are not always caught by supervising pharmacists and that those errors can lead to serious injuries.
- Pharmacy Technicians are involved in a significant number of the drug diversions occurring in pharmacies in Kansas. There is good reason to conclude that many of the drugs diverted from pharmacies are sold on the street.
- At least 25 other states, including Iowa, Missouri and Oklahoma, currently require a form of licensing or registration for Pharmacy Technicians.

*Attachment 8
HHS 2-13-03*

**WHY THE KANSAS BOARD OF PHARMACY
BELIEVES LEGISLATION SHOULD BE ENACTED
PROVIDING FOR THE REGISTRATION OF PHARMACY TECHNICIANS**

1. This Request is Unique and Motivated Solely by Concern for Public Safety

The Board wishes to emphasize that this is not the typical credentialing request contemplated by K.S.A. 65-5001 *et seq.* in which a group seeks to obtain for itself formal recognition or enhanced billing status. This is an application motivated solely by a real concern for the safety of Kansans. This proposal is being brought forward by the Kansas Board of Pharmacy (the "Board"), which has no Pharmacy Technicians as members. Legislation providing for the registration of Pharmacy Technicians, if passed, will not directly benefit any of the Board members. The Board has expending significant time and resources in this endeavor, not to benefit its self or its members, but out of its sense of duty to the people of Kansas.

The Board is a group of licensed professionals who have been individually selected and appointed by the Governor of the State of Kansas to protect the citizens of Kansas through the administration and enforcement of the Kansas Pharmacy Act. Therefore, this proposal is an expression of the collective professional judgment of the current and past members of the Board that registration of Pharmacy Technicians is critical to the protection of the health and welfare of Kansas citizens. The Board would also point out that this proposal also has the support of pharmacists generally throughout the State of Kansas. The Kansas Pharmacists Association ("KPA") represents Kansas pharmacists in all practice settings. The KPA has expressed the unqualified support of the organization and its members for legislation providing for the registration of Pharmacy Technicians in Kansas. Like the Board, the pharmacists throughout Kansas have nothing to gain by this proposal other than the knowledge that the health and

welfare of their patients will be better protected.

2. The Need to Register Pharmacy Technicians has Been Recognized Nationally

The National Association of Board's of Pharmacy ("NABP") formed a Task Force to study, among other things, whether there was a need, based upon the goal of protecting the health and welfare of the public, to register pharmacy technicians. In its report, the NABP Task Force made the following comments regarding the need for regulation of the practice of pharmacy technician.

The Task Force endorsed the *Model State Pharmacy Act* provision which requires that pharmacy technicians be registered by the state board of pharmacy (Article III, Section 307). The Task Force discussed the issue of the increasing number of pharmacy technicians being used to assist pharmacies in the practice of pharmacy, and expressed concern that many state boards of pharmacy do not regulate technicians. Given that the state boards of pharmacy are charged with protecting the public health, the boards have an interest in regulating those persons assisting in the practice of pharmacy through a system of registration. By keeping track of technicians, boards can prevent those who are at risk of injuring the public from assisting in the practice of pharmacy.

These comments are significant because they reflect the opinion of trained pharmacy professionals throughout the country after careful study of the Pharmacy Technician issue. The comments indicate that these professionals, who work in pharmacies every day, recognize that Pharmacy Technicians can and do adversely affect the public health

and that education alone will not eliminate that very real risk. This conclusion is obvious from the Report's recommendation that Pharmacy Technicians be required to meet certain educational requirements and be registered. Under current Kansas law the Board has no means to "prevent those [technicians] who are at risk of injuring the public from assisting in the practice of pharmacy." It was the need to fill this dangerous void that motivated the Board to take on the task of seeking legislation. The NABP Task Force Report also noted that registration of Pharmacy Technicians in all states would serve to protect the health and welfare of the public in each of the states. "The Task Force noted that nationwide technician registration would allow for the development of a tracking mechanism; a centralized information clearinghouse which would inform states of any action taken against a pharmacy technician that restricts or prohibits that individual from practicing in any state. The Task Force endorsed the benefits of such a system, pointing out that it would assist the boards in protecting the public health and welfare by identifying those individuals who are unqualified or unable to effectively and safely assist in the practice of pharmacy."

3. Data is Being Developed that Verifies the Risks Presented by Unregulated Pharmacy Technicians

Although studies have begun relatively recently, industry experts recognize the very real threat pharmacy technician errors present to the health and welfare of the public. In the Fall of 2000, an article was published in Pharmacy Administration and Management magazine based on the presentation by the Pharmacist Communication Coordinator and Safe Medication Use Expert Committee staff liaison of United States Pharmacopeia ("USP") and the Vice President and General Counsel of Pharmacist Mutual Insurance Company. The report indicated that in 1991 an effort was begun to collect data on

medication errors that could be directly attributed to pharmacy technicians. The data indicated that supervising pharmacists did not catch 62% of the 377 technician errors identified in a 5-year period. Of the 18% that caused direct harm to the patient, 57% resulted in temporary harm, 31% resulted in temporary harm that required hospitalization, 7% resulted in near a death event (for example anaphylaxis or cardiac arrest) and 5% resulted in patient death. In evaluating this information it is important to keep in mind the restricted ability to obtain all available data and the ever-changing role of technicians in the pharmacy. The authors of the report noted: "As pharmacists have assumed more responsibility for providing cognitive services and other forms of pharmaceutical care, technicians have taken over more of the mechanical functions involved in the filling prescriptions and drug orders. According to the Pharmacists Mutual study of pharmacy professional claims, more than 80% of the claims against pharmacies involve mechanical errors, such as dispensing the wrong tablet or strength, or providing the wrong directions. Therefore, the technician has become crucial in implementing a quality assurance program to reduce medication errors." (emphasis added) What this report clearly demonstrates is that a significant number of Pharmacy Technician errors will not be caught by the supervising pharmacist, that some of those uncaught errors will adversely affect the health of patients and that the number of Pharmacy Technician errors and therefore patient injuries will increase in the years to come.

4. The Drugs Dispensed from Pharmacies Can be Dangerous

The Board believes the dangerous nature of the substances used by Pharmacy Technicians is obvious. Whether in a retail pharmacy or a hospital pharmacy, Pharmacy Technicians are involved in

dispensing the entire range of drugs available in America. The Board assumes the Legislature will accept without further proof that drugs improperly dispensed can be harmful and even lethal.

5. In the Real World Pharmacists Cannot and Will Not Catch all Errors Committed by Pharmacy Technicians in Kansas

The Board realizes that Kansas law indicates Pharmacy Technicians are not to exercise professional judgment and are to be supervised by licensed pharmacists. Notwithstanding, the Board also realizes that Pharmacy Technicians do make judgments in performing their functions. The Board realizes that those judgments do result in medication errors and that the supervising pharmacist will not catch many of those errors.

As an example, Pharmacy Technicians routinely obtain refill authorizations over the phone. As the supervising pharmacist is not on the phone also, the pharmacist will not catch any error. Pharmacy Technicians mix IV compounds. Unless a pharmacist is literally watching the Pharmacy Technician at all times, which does not happen, it may be physically impossible for the pharmacist to know if a mistake has been made. Pharmacy Technicians routinely count and place in containers medications to be dispensed to patients. Pharmacists do not recount those medications and although pharmacists are to visually check to see that the correct medication and correct dosage is being dispensed to the correct person, it can be difficult to do and the Board knows for a fact that mistakes are routinely made. Pharmacy Technicians are also involved in the process of labeling drugs to be dispensed to customer/patients. Labels can be of crucial importance because they instruct a patient how the drug is to be taken. As the Legislature is aware, one dosage of a drug can be very therapeutic for a patient while another dosage of the same drug can be extremely detrimental or even fatal. Again, although pharmacists are to check Pharmacy Technicians work the Board has seen large numbers of instances

in which pharmacist make errors in filling prescriptions and labeling prescriptions when they are doing all the work themselves. Pharmacy Technicians are routinely asked questions by customer/patients about their prescriptions. Although Pharmacy Technicians are not to counsel, the Board knows from cases in has become aware of that it happens. Counseling is of critical importance because it is the best way to prevent consumers form obtaining incorrect drugs or incorrect instructions on how to take the drugs. To suggest that all errors of Pharmacy Technicians will or even should be caught by supervising pharmacists is to put our heads in the sand and tie public safety to a hope that the Board knows from experience will not prove true in the real world.

The Board would also point out that there is an ever-increasing effort throughout the country to expand the functions and role of Pharmacy Technicians. This move has been and will be fueled by the explosion in number of prescriptions to be filled and the ever-expanding shortage of available pharmacists. In a 1999 presentation, the then President of the National Association of Chain Drug Stores (“NACDS”) presented the following statistics:

With a projected total volume of nearly three billion prescriptions by year-end, community pharmacy will have experienced a 50% growth rate in prescriptions in just eight years. And when we look long term, prescription volume will double to 4 billion per year by 2005 from two billion in 1992. Equally significant is this year’s projected volume growth rate of 8%. This comes on the heels of last year’s growth in volume of 6% and is double the historical trend. In fact, if these rates of growth continue, we are likely to hit the 4 billion level as early as 2004!

The NACDS President went on to advocate for the expanded use of Pharmacy Technicians and the relaxing of the limitations most state impose on the number of pharmacy technicians that can be supervised by one pharmacist. As these efforts to

increase the pharmacist to technician ratio increase and are successful, which they will be, the potential for Pharmacy Technician errors as well as the number of those errors that go undetected by supervising pharmacists will necessarily increase exponentially. It is the Board's desire to stay ahead of this looming threat by registering Pharmacy Technicians now.

6. Diversion of Drugs from Kansas Pharmacies is a Serious Problem

The Board has first hand knowledge that diversion of drugs from pharmacies has become a serious problem in the United States in general and in Kansas specifically. It is well known that Pharmacy Technicians are guilty of much of the diversion. Information from the Board's own investigations as well as information obtained from the Drug Enforcement Agency demonstrates that drugs are many times being diverted in large quantities. This fact leads to the inescapable conclusion that some if not most of those stolen drugs are being distributed or sold on the streets. Although this may not directly affect the health of pharmacy patients, the Board feels strongly that diversion of drugs from pharmacies adversely affects the welfare if not the health of Kansans in general.

7. Reported Court Cases Demonstrate the Devastating Results that can Occur from Pharmacy Technician Errors

The following are a few reported cases involving errors committed by Pharmacy Technicians.

A. Report of Suffolk County jury award on 3/27/02. This case involved a massive overdose of a high-blood-pressure drug that left a 4-year-old boy mentally retarded, suffering from cerebral palsy and seizures. A pharmacy technician prepared the drug, which was 100 times the proper amount. The failure to dilute the drug was not caught by the supervising pharmacist or the nurse who administered the drug.

B. Nelms v. Walgreen Co. This is a case in which it appeared that a pharmacy technician filled a prescription for Paxil with Tagamet and the error was not caught by a pharmacist before the drug was dispensed to the patient. The result was hospitalization of the patient for thrombocytopenia, or low platelet count, the symptoms of which included bruising and mouth sores.

C. Sunscript Pharmacy Corp. v. North Carolina Board of Pharmacy. Although this case dealt with disciplinary action against the registration of a pharmacy, the underlying facts involved the death of a patient who incorrectly received Dilantin as a result of a dispensing error in the pharmacy. The Court reported as part of its decision that “[t]he evidence presented at the hearing indicated that all of the errors had been initially committed by pharmacy technicians...”

D. Linden Medical Pharmacy v. Ohio State Board of Pharmacy. In this case, involving the discipline of a pharmacist because the pharmacy he was responsible for repeatedly sold controlled substances in violation of Ohio law, the facts revealed that while the pharmacist slept, pharmacy technicians “... placed the majority of the drug orders, supervised the day-to-day operation, and occasionally worked in the pharmacy without a pharmacist.” The testimony also indicated that unsupervised pharmacy technicians dispensed drugs and counseled patients in violation of the law.

Although none have resulted in a reported case, the Board has, through its own investigations, learned of errors made by Pharmacy Technicians in Kansas that have caused potential or real injury to pharmacy patients.

8. An Ever Increasing Number of States are Requiring Registration of Pharmacy Technicians

Based upon information compiled by the NABP a few years ago, twenty-five (25) states have passed legislation requiring that Pharmacy Technicians be either licensed or registered. The Board is not aware of any of those states that allow Pharmacy Technicians to practice without supervision by a pharmacist. The fact that these states have mandated registration reflects the recognition that supervision of Pharmacy Technicians without registration is not sufficient to protect the public. In the September 2000 NABP News Letter, it is noted that “[a] recent analysis of state pharmacy laws and regulations revealed that at least one-third of the states can discipline pharmacy technicians through such measures as probation, suspension, and/or revocation of registration.” Under current Kansas law, the Board has no such power. Notably, our neighboring states of Iowa, Missouri and Oklahoma each require Pharmacy Technicians to be registered or permitted. Pharmacy Technicians must work supervised in each of those states. Simply put, it is the request of the Board and pharmacists throughout Kansas that the Legislature provide the citizens of this State the same level of protection afforded citizens in the states that have previously recognized the need to register Pharmacy Technicians.

9. Conclusion

What the Board brings is the independent and unbiased professional opinion that the continued failure to register Pharmacy Technicians poses a real and serious threat to the health and welfare of the citizens of Kansas. Neither the pharmacists who comprise the Board nor the pharmacist throughout the State that support the Board’s efforts have anything to gain personally from seeking Pharmacy Technician registration. Their sole motivation is to protect Kansans. The Board has done its very best to provide information demonstrating the need for this legislation. Because the pharmacy industry has not carefully tracked medication errors by technicians in a comprehensive way, detailed statistics demonstrating the risks are not readily available. The Board would ask that you consider the fact that many states have already

mandated Pharmacy Technician registration. The Board would also ask that you consider that the Board and Kansas pharmacists in general, who have absolutely nothing to gain by this application, sincerely believe that registration of Pharmacy Technicians is need to adequately protect Kansans.

Testimony
H.B. 2207
House Health and Human Services

My name is Merlin McFarland. I am a Registered Pharmacist. I own four pharmacies and currently serve as a member of the Kansas State Board of Pharmacy. Thank you for this opportunity to address the committee regarding H.B. 2207.

As a practicing pharmacist I fully support H.B.2207 and the registration and regulation of pharmacy technicians. The changes in technology and the increasing workload due to cuts in pharmacy reimbursement make it mandatory that we have a competent well-trained technician work force. If pharmacies are to remain profitable enough to stay in business, innovative approaches utilizing emerging technology and workflow systems must be utilized. Almost all of these approaches will increase the use of pharmacy technicians. To protect the public health the State Board of Pharmacy must be able to identify and regulate individuals functioning as pharmacy technicians.

Today you will hear about national trends and how other states are handling pharmacy technicians. The National Association of Boards of Pharmacy has information, collected from all over the United States, that illustrates these problems. As a practicing pharmacist I have personal knowledge of many technician related problems. I would like to relate two recent problems that could have been resolved by H.B.2207.

In the first instance, a nationally certified pharmacy technician, employed by a retail pharmacy for approximately three years, diverted 1400 name brand Lortab tablets in 12 weeks. Pharmacy computer reports and payroll records confirmed that this technician was the only employee that could have altered the computer inventory on all 14 occasions. Since the State Board of Pharmacy has no jurisdiction over technicians, the local law enforcement investigated. The district attorney declined to prosecute because the wholesale value of the drug was not high enough. Although, a conservative estimate of the street value was \$28,000. The technician was fired. Currently there is nothing to prevent this person from working in another pharmacy and diverting drugs. When H.B. 2207 becomes law this person will be subject to disciplinary action and new employers will be able to request this information prior to hiring a credentialed technician.

In another instance a pharmacy technician with several years experience was hired by a retail pharmacy. This technician made lots of errors and continually performed functions that should have been relegated to a pharmacist. Attempts at retraining the person failed and the person continued to try to counsel patients and to give them their prescriptions with out being checked by a pharmacist. This technician was fired and currently works mixing intravenous medication for a large hospital pharmacy. When H.B. 2207 becomes law this person could face disciplinary action. This action could include retraining or taking a law test, as well as sanctions against the person's registration.

In conclusion I respectfully request that the Committee support H.B. 2207. The registration of pharmacy technicians will help protect the public health and increase the quality and availability of pharmaceutical care in Kansas.

Attachment 9
HHS 2-13-03

I am Dr. Dan Upson. I want to thank you for the opportunity to speak to the committee. I am the public member of the Board of Pharmacy. I have served 50 years as a veterinarian in my profession and this is the sixth year I have served on the Board of Pharmacy. I have been very much aware of the changes brought about to provide better professional service in both the veterinary profession and the profession of pharmacy.

Our desire to register the pharmacy technicians is in no way self-serving. Our only desire is to take care of the health and welfare of the people of Kansas. It is my judgement that this oversight of the pharmacy technician is tremendously important as the profession of pharmacy functions today. Professions must change as times change. In pharmacy there is a tremendous increase in the emphasis of pharmacy technicians to help the pharmacists properly serve the public. The major change is that as the technician are able to perform more of their duties, it increases the time the pharmacists have to counsel their patients. The pharmacists are a tremendous resource of medical information and they need time to help their patients with this information.

I would urgently ask for your support in the passage of this legislation. I will stand for questions.

Attachment 10
HHS 2-13-03

Jim Morrison

From: Deborah Stern [dstern@kha-net.org]
Sent: Wednesday, February 12, 2003 8:44 AM
To: garyd@house.state.ks.us; jmorriso@ink.org
Subject: pharm tech testimony Feb. 2003

Gary: Here is my testimony. Please put me on the list of conferees for HB 2207, Thursday at 1:30.
Thank you



TESTIMONY ON HOUSE BILL 2207
Committee on House and Human Services
February 13, 2003 1:30

Good afternoon. My name is Deborah Stern and I am vice president of clinical and quality services at the Kansas Hospital Association. I am here today to testify in favor of registering pharmacy technicians for the purpose of allowing the Kansas State Board of Pharmacy to have oversight over incompetent technicians.

The decision to grant credentialing status must be given careful review as your actions can affect the quality of health care provided to the public, increase the cost of health care, increase costs to employers and limit the ability of certain workers to provide health care in Kansas.

The idea to register these technicians was first discussed several years ago when the Board of Pharmacy began to hear complaints about pharmacy technicians who were stealing drugs, namely narcotics, from one employer and then moving on to a new job and a new source of drugs. Since the Board of Pharmacy has never had jurisdiction over pharmacy technicians, it has been unable to track the movement of these workers, take any action to stop unlawful behavior, or address incompetent performance.

Pharmacy technicians employed in hospitals have easy access to numerous

2/12/2003

Attachment 11
HHS 2-13-03

narcotics and may work in areas of the pharmacy away from the watchful eye of a supervising pharmacist. This access can be too tempting to a drug-impaired pharmacy technician or one who sells drugs illegally. One primary purpose of House Bill 2207 is to give the Board of Pharmacy the ability to step in and discipline those pharmacy technicians who steal and or use drugs obtained illegally from their employer. This bill would also allow the Board to discipline those technicians found to have violated safe pharmacy practice.

If this bill is enacted, an employer considering hiring a new pharmacy technician would have the ability to call the Board of Pharmacy and learn if any disciplinary action had ever been taken against this technician. Having the ability to oversee these workers would also greatly assist the Board of Pharmacy in fulfilling its duty to protect the health and safety of the citizens of Kansas.

House bill 2207 requires that all pharmacy technicians pass an examination approved by the Board of Pharmacy. Although some Kansas hospitals employ pharmacy technicians who are already certified by virtue of passing a national pharmacy technician examination, the majority of hospital pharmacy technicians are trained on the job and are not certified. In light of the sophisticated and complex medicines that are constantly being introduced, it is important that these pharmacy employees have sufficient knowledge to handle the immense demands placed on them. To assure that pharmacy technicians possess the information needed to perform in their ever-changing work environment, the Kansas Hospital Association proposes that an examination, or the successful completion of a course of study approved by the Board of Pharmacy, be required of all pharmacy technicians.

With the ability to use an approved, internal course of study in lieu of an examination, employers, especially those in western Kansas, who have difficulty finding part-time help, would be able to prove that their pharmacy technicians possess sufficient training to provide safe care.

In summary, with the ever-growing demands placed on all pharmacy workers, the need exists for pharmacy technicians to prove that they have the skills needed to work alongside pharmacists in providing correct medicines to the citizens of Kansas. With the requirement that all pharmacy technicians pass an examination or successfully complete an approved course of study, House

Bill 2207 as amended, would mandate that pharmacy technicians possess the basic knowledge required to carry out their duties. By allowing the Board of Pharmacy to track pharmacy technicians, unsafe pharmacy workers will be identified and Kansans will be protected.

Thank you for the opportunity to appear before you today.

House Bill No. 2207

**to the
House Committee on Health and Human Services**

**by
Marla Rhoden, Director, Health Occupations Credentialing
February 13, 2003**

Chairperson Morrison, I am pleased to appear before the House Committee on Health and Human Services to discuss House Bill 2207. This bill amends and adds language to Board of Pharmacy statutes to establish registration as a level of credentialing of pharmacy technicians. This proposed legislation is similar to 2001 Senate Bill 194 which was intended to create in effect a "registry" of pharmacy technicians without the label of registration as a level of credentialing. The Board of Pharmacy was directed by the legislature to pursue a technical review in accordance with the Kansas Act on Credentialing.

On August 1, 2001, the Board of Pharmacy submitted an application for credentialing review seeking registration of pharmacy technicians. In accordance with procedures prescribed in the Kansas Act on Credentialing, a credentialing review was conducted and was completed on May 23, 2002. Data from the applicant as well as testimony from opponents and proponents is presented during the technical review process which identifies such topics as: the relative harm or endangering of public health, safety or welfare, public needs which are satisfied or benefit achieved by credentialing at this level, the effect of credentialing the group upon health care and other health care personnel, and whether it is the "least regulatory means of assuring the protection of the public" which is the preferred policy established by the Act. According to law, in order for a technical committee to recommend credentialing of a health occupation, ten criteria prescribed in statute must be found to be met. The technical committee which reviewed the application for registration of pharmacy technicians determined that four of the ten criteria were not met, and the committee's final report recommended denial of the application. The Secretary of Health and Environment concurred with the technical committee's recommendation to deny the application as reflected in the Secretary's report to the Legislature dated June 19, 2002.

According to the Kansas Act on Credentialing, a health occupation whose application for credentialing has been denied has the opportunity to apply for a

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*Attachment 12
HHS 2-13-03*

subsequent review and address those criteria which were initially found not to be met.

Most bills that bypass the Kansas Act on Credentialing involve a new occupation or an occupation which has previously been recommended at a lower credentialing level that is desired by that group. In this case, a level of credentialing would be established for an occupation not previously credentialed.

With this information in mind, we would respectfully request that House Bill No. 2207 not be passed. Thank you again for the opportunity to comment on House Bill 2207. I would gladly respond to any questions you may have.

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12-2

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: HEALTH & HUMAN SERVICES
INSURANCE
TAXATION
TOURISM AND PARKS

Mr. Chairman and fellow Committee members,

Thank you for allowing me to testify on Bill 2274.

As it relates to registering Pharmacy Technicians in the State of KS. It is rare that we get simple solutions to complex problems. However, this bill does exactly that.

Pharmacy Technicians are an incumbent part of not only the pharmacy world, but also the medical community as a whole. With increase demand of Pharmaceuticals and a higher interdependency on Pharmacists, technicians are easing the strain on this industry by completing tasks that are Registered Pharmacists and Dr. of Pharmacology.

The concern at hand is maintaining integrity in those incumbent positions. Under the status quo, Techs can abuse the system and the state gets no reciprocity for those who abuse the system and move on to the next pharmacy, only to do so again. House Bill 2274 will allow the state to hold those who wish to take advantage of this important position. The benefits all of KS by helping to contain health-care costs and pharmacy costs for those of us who use the system with the best of intentions.

That being said, I emphatically ask this committee to vote favorably on HB 2274. With that, I would stand for questions.

A handwritten signature in black ink, appearing to read 'Scott Schwab'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Scott Schwab
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Attachment 13
HHS 2-13-03