

MINUTES OF THE HOUSE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman Michael R. O'Neal at 3:30 p.m. on February 12, 2003 in Room 313-S of the Capitol.

All members were present except:

Representative Dean Newton - Excused

Representative Rick Rehorn - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department

Jill Wolters, Revisor of Statutes

Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Representative Mary Compton

Doug Smith, Kansas Academy of Physician Assistants

Mark Stafford, Kansas Board of Healing Arts

Representative Jeff Goering

Hearing on **HB 2156 - professional corporation may include physician assistants**, was opened.

Representative Mary Compton appeared before the committee as the sponsor of the proposed bill. She informed the committee that a physician in her district wants to form a corporation with a physician assistant. He believes that this bill would encourage physician assistants to come to rural areas of the state to assist doctors. (Attachment 1)

Doug Smith, Kansas Academy of Physician Assistants, appeared in support of the proposed bill because it would be an added incentive to attract and keep physician assistants in rural areas. (Attachment 2)

Mark Stafford, Kansas Board of Healing Arts, suggested that the committee consider whether there are any legal or ethical constraints which prohibits physician assistants from joining a corporation.

Hearing on **HB 2156** was closed.

Hearing on **HB 2165 - civil liability for worthless checks, definition of giving a worthless check**, was opened.

Representative Jeff Goering appeared before the committee as the sponsor of the proposed bill. He explained that the current definition of worthless check is extremely broad. The proposed bill would simply delete the language that addresses the payment of a pre-existing debt. (Attachment 3)

City of Wichita did not appear before the committee but provided written testimony in opposition of the bill stating it would make it more difficult to collect insufficient fund checks when they are written to satisfy pre-existing debt. (Attachment 4)

Hearing on **HB 2165** was closed.

HB 2165 - civil liability for worthless checks, definition of giving a worthless check

Representative Goering made a motion to report HB 2165 favorably for passage. Representative Owens seconded the motion. The motion carried.

Committee minutes from February 3, 4, 5, & 6 were distributed

The committee meeting adjourned at 4:30 p.m. The next meeting was scheduled for February 13, 2003 at 3:30 p.m. in room 313-S.

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: AGRICULTURE
ENVIRONMENT
TRANSPORTATION
UTILITIES

MARY COMPTON

REPRESENTATIVE, 13TH DISTRICT

STATE CAPITOL BUILDING, RM 110-S

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(LEGISLATIVE HOTLINE DURING SESSION)

ROUTE 3

BOX 242

FREDONIA, KANSAS 66736

(620) 633-5364

February 12, 2003

Thank you Chairman O'Neal and Committee Members.

I have been asked by a physician in my district to introduce **HB 2156**. A similar bill was introduced last year but failed to make it out of committee.

This physician has a practice in a small town (about 2600 persons) and employs a Physician Assistant. The Physician Assistant would like to form a corporation with the doctor and with this bill that could be possible.

The rural areas must struggle to find doctors who will come to a small town to practice medicine. Bringing in a Physician Assistant is even more difficult. I believe this bill would encourage Physician Assistants to come to rural areas to assist doctors if they could be part of a corporation.

Dr. Voorhees could not get away from his office, but sent a letter of testimony.

I will stand for questions. Thank you.

H. JUDICIARY

2-12-03

Attachment: 1

FAMILY HEALTH CARE,

A Professional Association

P.O. Box 516

Fredonia, KS 66736

Victor J. Vorhees, M.D.

Rebecca Green, PA-C

February 7, 2003

Honorable Mary Compton
State House
Topeka KS

RE: Pending legislation regarding physician assistants' ownership in professional corporations.

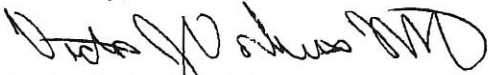
Dear Ms. Compton,

Thank you for your continued interest in legislation to permit physician assistants to hold minority ownership positions of professional corporations. It is our opinion that such legislation will help to attract and retain physician assistants, particularly rural areas that may be otherwise underserved medically.

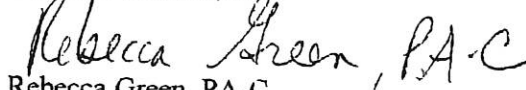
Because physician assistants cannot practice independently, it is our opinion that there is a greater likelihood of passage of legislation which restricts them to minority positions in professional corporations, rather than allowing them to incorporate solely.

It is our knowledge that many physician assistants are interested in this legislation. Conversations with other physician assistants indicate that they also feel this way. We cannot see any threat to physicians, hospitals, or patients in allowing physician assistants to hold minority stockholder positions in professional corporations. It seems, to us, to be positive for all concerned.

Sincerely,



Victor J. Vorhees, M.D.



Rebecca Green, PA-C

VJV

lw

Kansas Academy of Physician Assistants

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Legislative Testimony

House Judiciary Committee

Senate Bill No. 377

February 12, 2003

Chairman O'Neal and Members of the House Judiciary Committee:

Thank you for the opportunity to present the testimony of the Kansas Academy of Physician Assistants on House Bill No. 2156, a measure concerning professional corporations and would include Physician Assistants in the list types of professional services. Our Association did not request this legislation, but we do support House Bill No. 2156. This issue has been of keen interest to our membership, but given the other pending legislative issues (Senate Bill No. 28) we did not seek any specific legislative action.

In Kansas, there are more than 500 Physician Assistants (PA) licensed by the Board of Healing Arts. The Kansas Academy of Physician Assistants membership includes 325+ licensed PAs and 78 student members.

A Physician Assistant serves an integral part in the practice of medicine by providing needed health care services across this state. Physician Assistants are educated in the medical school model and work with physician supervision, as members of a physician directed healthcare team, participating in the care of patients. The boundaries of a physician Assistant's scope of practice are determined by four parameters:

- The PA's education and experience
- State law and regulatory approach
- Individual facility policy regarding practice privileges
- The Responsible Physician's delegation of healthcare decisions

As a part of their comprehensive responsibilities PAs can conduct physical exams, diagnose and treat illnesses, order and interpret test, write prescription orders, counsel on preventive healthcare and assist in surgery.

In many of our communities, Physician Assistants are the providers of daily primary care medical services. Without the use of Physician Assistant, the accessibility to medical care can be limited, particularly in rural areas.

H. JUDICIARY

2. 12. 03

Attachment: 2

Physician Assistants provide valuable assistance to the physicians they work with and to the communities they serve. In fact, many of our members have been offered interests in professional corporations as a way to have ownership in their practice and to retain their services in the community. KSA 17-2707 prohibits a Physician Assistant from entering into such legal entities. House Bill No. 2156 would permit the formation of such corporations.

We ask for your favorable action on this request as you consider this legislation.

Thank you for your time today.

Douglas E. Smith
Executive Director
Kansas Academy of Physician Assistants

JEFF GOERING

REPRESENTATIVE, 105TH DISTRICT
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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: CORRECTIONS AND JUVENILE JUSTICE
JUDICIARY
TAXATION

**TESTIMONY
HOUSE JUDICIARY COMMITTEE
FEBRUARY 12, 2003
HB 2165**

Mr. Chairman and members of the Judiciary Committee:

Thank you for the opportunity to come before you today and speak in support of HB 2165. HB 2165 revises the current definition of "giving a worthless check" as found in K.S.A. 60-2610(h). Before I discuss what this bill does, let me first describe the problem with the current definition.

K.S.A. 60-2610(h) currently states:

"As used in this section, 'giving a worthless check' means the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check, order or draft on any bank, credit union, savings and loan association or depository for the payment of money or its equivalent:

(1) With the intent to defraud or in payment for pre-existing debt; or

(2) Which is dishonored by the drawee because the maker or drawer had no deposits in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of such check, order or draft in full upon its presentation; and

(3) for which the maker or drawer has not tendered to the holder's agent the amount of money demanded and within the time allowed by the demand required in subsection (b)."

The problem with K.S.A. 60-2610(h) lies in that provision that addresses pre-existing debt. As currently drafted, K.S.A. 60-2610(h) defines "giving a worthless check" as the making or delivering of a check on any bank for the payment of a¹ pre-existing debt. There is no requirement that the check actually bounce, or be dishonored by the drawee bank due to insufficient funds.

The difficulty this creates is in the area of checks that are not honored due to stop payment orders. I have had cases where clients were sued under the bad check statute because checks were tendered for payment of pre-existing debts which were subsequently subject to stop pay orders. I do not believe that it was the intent of the legislature.

I have reviewed the legislative history of this statute. In one of its prior forms, "giving a worthless check" was defined as giving a check "with the intent to defraud or in payment of a pre-existing debt; *and* which is dishonored by the drawee . . ." In discussing the history of the statute with the collection bar, I understand that the statute was amended in an effort to simplify the statute to define "giving a worthless check" to simply mean any check which is dishonored by the drawee bank due to insufficient funds. This was accomplished by changing the word "and" in section (h)(1) to "or". While this accomplished the goal of the collection bar, the result was the creation of the problem described above.

This problem can be resolved in one of two ways. A requirement that a check tendered in payment of a pre-existing debt be dishonored could be inserted which would solve the problem. However, this would seem to me to me that this would be redundant to the language which already exists in section (h)(3).

It seems to me that the definition of giving a worthless check that is already provided in section (h)(3). This being the case, I believe the better fix is to simply eliminate that part of the statute that addresses the payment of a pre-existing debt, which is what this bill does.

Jeff Goering
Representative-105th District



TESTIMONY

City of Wichita
Mike Taylor, Government Relations Director
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House Bill 2165 Civil Cause of Action for Worthless Checks

Delivered to
House Judiciary Committee
February 12, 2003

The City of Wichita has concerns about House Bill 2165. If passed as written, the bill could complicate the City of Wichita's attempts to collect delinquent fines owed Municipal Court, as proposed in House Bill 2133. The House Judiciary Committee has held a hearing on HB 2133 and is considering the merits of that bill.

House Bill 2165 seeks to amend the definition section of giving a worthless check. The amendment removes the wording, "in the payment of pre-existing debt," leaving only the provision for "with the intent to defraud." Currently, anyone who writes a bad check with the intent to defraud *and* in payment of a pre-existing debt can be sued for increased damages and service fees.

It would seem the absence of the pre-existing debt provision would make it more difficult to collect insufficient funds checks when they are written to satisfy pre-existing debt, such as delinquent Municipal Court fines.

In light of our request for House Bill 2133, we felt it relevant to bring this possible conflict between the bills to the attention of the committee.

The committee's attention to this concern, and consideration of the merits of House Bill 2133 are appreciated.

H. JUDICIARY

2.12.03

Attachment: 4