

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 1:35 p.m. on March 15, 2004, in Room 526-S of the Capitol.

All members were present except:

Representative Cindy Neighbor- excused  
Representative Stephanie Sharp- excused  
Representative Sue Storm- excused  
Representative Joe McLeland -excused

Committee staff present:

Dr. William Wolff, Legislative Research Department  
Renaë Jefferies, Office of Revisor of Statutes  
Gary Deeter, Secretary

Conferees appearing before the committee:

Randall Forbes, Attorney, Kansas Dental Board  
Kevin Robertson, Executive Director, Kansas Dental Association

Others attending:

See Attached List.

The Committee minutes for the March 11 meeting were approved.

The Chair opened the hearing on **SB 425**.

Randall Forbes, Attorney for the Kansas Dental Board, spoke in support of the bill, noting that the attached testimony was written by Larry Williamson, Executive Director for the Kansas Dental Board. (Attachment 1) Mr. Forbes stated that, because the techniques and components of anesthesia change through the years, the Board saw a need to address the different levels of sedation and adopt rules and regulations to better protect the public. He said that the bill expands the Board's authority to oversee the use of sedation, establishes various levels of sedation, sets concomitant levels of training and expertise with equipment, and provides for periodic inspections to assure compliance.

Answering questions, Mr. Forbes said the Board sought to address a continuum of levels of sedation in order to assure that the risks for each level are minimized.

Kevin Robertson, Executive Director, Kansas Dental Association, spoke as a proponent. (Attachment 2) He said that the Senate amended into the bill a requirement that each practicing dentist carry professional liability insurance, exempting only those who are retired or who are doing charitable work.

Members made comments about various items in the bill, suggesting that for some levels of sedation, a dentist should know more than CPR (cardio-pulmonary resuscitation) and that the wording of the bill did

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not thoroughly address deeper levels of sedation and requisite training for those levels. Mr. Robertson observed that the bill establishes more strictures than current rules and regulations, saying he believes the Board will address some of the concerns expressed by members of the Committee through new rules and regulations.

The hearing on **SB 425** was closed.

The Chair suggested that the Committee consider action on **SB 453**. A motion was made to work SB 453  
The motion was seconded and passed.

The Committee engaged in extended discussion of the bill, which exempts school districts from child-care oversight by the Kansas Department of Health and Environment (KDHE). An amendment provided by Senator Barnett was discussed. A motion was made and seconded to adopt the Barnett amendment.  
(Attachment 3)

Further discussion followed. Members expressed concern that the change of wording from *facility, program or service* to *preschool* (page 1, line 34) might have unintended consequences, debating among themselves, with Senator Barnett, and with Diane Kramer (Director of Personnel, Emporia Public Schools) how the Emporia Head Start and other preschool programs were different from a private preschool that provided both education and day care. One member suggested that the word *preschool* could place a school district in competition with private preschools. Ms. Kramer commented that the Emporia preschool students were all from low-income families, noting that because of the need to provide more than 4 hours of education for them, the program fell under the oversight of KDHE's day-care licensing regulations. She also said that if the Emporia preschool were to be placed under KDHE oversight, the paper workload would double for the district, the district would encounter confidentiality issues because of HIPAA (Health Insurance Portability and Accountability Act), and would require a full-time, on-site administrator. She said except for the administrator, the district is already doing nearly everything that KDHE requires. Answering a question, she said the school district tried working with KDHE to adjust the agency's rules and regulations, but to no avail.

Members continued to express concerns about the amendment. A vote was taken on the amendment, and it failed to pass, 7-9.

A motion was made and seconded to table the bill. The motion failed, 5-11.

A motion was made and seconded to recommend SB 453 favorable for passage.

A substitute motion was made and seconded to assign SB 453 to the Legislative Coordinating Council for an interim study.

During further discussion of the motion, a member stated that an interim committee could bring all the

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principals to the table to work out the nuances of the issue, arrive at a more agreeable resolution than the Committee could do in the brief time available to it, and avoid what might prove to be poor public policy.

No further action was taken. The Chair adjourned the meeting at 3:03 p.m. The next meeting is scheduled for Tuesday, March 16, 2004.

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

DATE: MARCH 15 2004

NAME	REPRESENTING
RANDALL J. FORBES	KANSAS DENTAL BOARD
Kevin Robertson	Ks DENTAL ASSN
Kevin Barone	Hein Law Firm
Ramie Ann Lower	KAWP
Debbie Korman	Emporia Public Schools
Dan Murray	Federico Consulting
Cindy Luxem	KHCA
CARMEN ALDRICH	KDOR
MARSHA BEAN	KDOR
Tom Gaches	KDHA
Quincy Campbell	Intem
Amy Campbell	Ks State Opnth. Society
Christina Collins	KMS
LARRY MAGILL	Ks ASSN OF INS. AGENTS

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KATHLEEN SEBELIUS  
GOVERNOR

KANSAS DENTAL BOARD

From: Larry A. Williamson  
Executive Director

To: House Committee on Health and Human Services

Subject: SB 425

Date: March 15, 2004

Senate Bill 425 revises Chapter 65, Section 1444 of Kansas Statutes Amended on the subject of sedation and anesthesia. The Kansas Dental Board strongly supports this legislation and urges its passage.

The effective control of anxiety and pain has been an integral part of dental practice since the early development of the profession. Without effective anxiety and pain control, numerous dental procedures are virtually impossible and many patients do not seek needed dental treatment. The range of options available to dentists for sedation and anesthesia, as to both pharmacological products and techniques, have changed over the years, and the Kansas Dental Board is responding to the heightened interest and concern in this development by asking that their authority to regulate this aspect of the practice of dentistry be strengthened.

Senate Bill 425 would empower the Kansas Dental Board to do several things:

1. Expand and strengthen its authority through rules and regulations to establish different requirements and qualifications to administer different types of sedation or anesthesia. This is in response to the dynamic environment of change in the number and types of drugs and methodologies available.
2. Provide authorization to make rules and regulations that establish renewal procedures for permits allowing sedation and anesthesia and the requirements necessary to maintain proficiency. This will ensure that dentists will remain current and proficient in their understanding and administration of modern sedation and anesthesia medicines and techniques.
3. Provides for periodic inspections to determine whether dentists are in compliance with the law and supporting rules and regulations.

Attachment 1  
HHS 3-15-04

4. Leaves undisturbed the provisions of K.S.A. 65-1444 that allow a dental assistant to assist in administering nitrous oxide or oxygen based on documented education and training.

Most of the concerns of the Kansas Dental Board in the area of sedation and anesthesia will be addressed through the regulatory process based on the authority contained in this bill. K.A.R. 71-5-1 addresses sedative and general anesthesia but will be substantially revised as a companion step to the passage of this bill.

Please note that the effective date of this bill is July 1, 2005. This date is recommended deliberately so as to accommodate the thorough development of an effective regulatory package to take effect at the same time.

SB 425 was amended by the Senate Committee on Public Health and Welfare with the addition of Section 2 requiring that dentists maintain professional liability insurance. The Kansas Dental Board has no objection to addition of this section.



Kansas Dental Association

Date: March 15, 2004

To: House Committee on Health & Human Services

From: Kevin J. Robertson, CAE  
Executive Director

**RE: Testimony on SB 425**

Chairman Morrison and members of the committee I am Kevin Robertson, executive director of the Kansas Dental Association (KDA) representing 1,168, or some 80% of the state's licensed dentists. I am here today in support of SB 425.

As requested by the Kansas Dental Board, the bill would simply provide the Dental Board the ability to better work within its rulemaking authority to craft Administrative Rules and Regulations regarding the use of varying levels of sedation in the dental office. The KDA is currently working with a task force of the Dental Board on this issue. The amendments in Section 1 do make some grammatical changes in the dental practice act, however, the bill makes no changes in the scope of service that any member of the dental team – dentists, dental hygienists or dental assistants - can perform.

New section 2 was added in the Senate Committee after a constituent complained that a dentist she was seeing for treatment did not have professional liability insurance. After discussing this with the KDA governing board, it was determined it would be best to rectify this with an amendment to this bill. It is the KDA's belief that nearly all dentists carry some level of professional liability insurance, therefore, this amendment will affect very few dentists. The KDA worked with the Senate Committee on the amendment to exempt those dentists who may be retired and maintaining a license only to practice in charity settings under KSA 75-6102 - like a local health department or the Kansas Mission of Mercy project.

Thank you for your time today, I am happy to answer any questions you may have at this time. I urge you to **vote YES on SB 425**.

Attachment 2  
HHS 3-15-04

SENATE BILL No. 453

By Committee on Public Health and Welfare

2-5

10 AN ACT concerning the regulation of child care facilities; relating to  
11 exemptions therefrom; amending K.S.A. 65-501 and 72-8236 and re-  
12 pealing the existing section sections.  
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 65-501 is hereby amended to read as follows: 65-  
16 501. It shall be unlawful for any person, firm, corporation or association  
17 to conduct or maintain a maternity center or a child care facility for chil-  
18 dren under 16 years of age without having a license or temporary permit  
19 therefor from the secretary of health and environment. ~~Nothing in this~~  
20 ~~act shall~~ *The provisions of K.S.A. 65-501 et seq., and amendments thereto,*  
21 *shall not apply to:*

22 (a) A residential facility or hospital that is operated and maintained  
23 by a state agency as defined in K.S.A. 75-3701, and amendments thereto;  
24 or

25 (b) a summer instructional camp that:

26 (1) Is operated by a Kansas educational institution as defined in  
27 K.S.A. 74-32,120, and amendments thereto, or a postsecondary educa-  
28 tional institution as defined in K.S.A. 74-3201b, and amendments thereto;

29 (2) is operated for not more than five weeks;

30 (3) provides instruction to children, all of whom are 10 years of age  
31 and older; and

32 (4) is accredited by an agency or organization acceptable to the sec-  
33 retary of health and environment; or

34 ~~(c) Any facility, program or service operated, or authorized to be op-~~  
35 ~~erated, by the board of education of a school district if the board certifies~~  
36 ~~annually, by resolution, that such facility, program or service:~~

37 (1) *Is supervised by a teacher who holds a certificate to teach*  
38 *and an administrator who holds a school administrator's certificate*  
39 *issued by the state board of education pursuant to law;*

40 (2) *conducts, through the Kansas bureau of investigation, crim-*  
41 *inal background checks on all staff members upon hiring;*

42 (3) *provides classroom space comparable to that afforded other*  
43 *district programs;*

a preschool

Attachment 3

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- 1 (4) is offered at a site located on property owned or leased by
- 2 the school district and which property complies with ~~required~~ applicable
- 3 building and fire codes;
- 4 (5) maintains staff and student records and emergency contact
- 5 information;
- 6 (6) does not allow children under the age of three years to enroll
- 7 at such ~~facility or in such program or service~~ preschool
- 8 (7) assists students to achieve academic performance at or
- 9 above state standards.

10 A copy of such resolution shall be sent to the secretary on or  
11 before November 1 of each year.

12 Sec. 2. K.S.A. 72-8236 is hereby amended to read as follows:  
13 72-8236. (a) The board of education of any school district may: (1)  
14 Establish, operate and maintain a child care facility; (2) enter into  
15 cooperative or interlocal agreements with one or more other boards  
16 for the establishment, operation and maintenance of a child care  
17 facility; (3) contract with private, nonprofit corporations or asso-  
18 ciations or with any public or private agency or institution, whether  
19 located within or outside the state, for the establishment, operation  
20 and maintenance of a child care facility; and (4) prescribe and col-  
21 lect fees for providing care at a child care facility.

22 (b) Fees for providing care at a child care facility established  
23 under authority of this section shall be prescribed and collected  
24 only to recover the costs incurred as a result of and directly attrib-  
25 utable to the establishment, operation and maintenance of the child  
26 care facility. Revenues from fees collected by a board under this  
27 section shall be deposited in the general fund of the school district  
28 and shall be considered reimbursements to the district for the pur-  
29 pose of the school district finance and quality performance act and  
30 may be expended whether the same have been budgeted or not and  
31 amounts so expended shall not be considered operating expenses.

32 (c) Except as provided in K.S.A. 65-501, and amendments thereto,  
33 every school district which establishes, operates and maintains a  
34 child care facility shall be subject to the provisions contained in  
35 article 5 of chapter 65 of Kansas Statutes Annotated.

36 (d) As used in this section, the term "child" means any child  
37 who is three years of age or older, and any infant or toddler whose  
38 parent or parents are pupils or employees of a school district which  
39 establishes, operates and maintains, or cooperates in the establish-  
40 ment, operation and maintenance of, a child care facility under au-  
41 thority of this act.

42 Sec. 3. K.S.A. 65-501 is and 72-8236 are hereby repealed.

43