

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 1:45 p.m. on February 12, 2004 in Room 231-N of the Capitol.

All members were present except:

Ms. Emalene Correll, Legislative Research - excused

Committee staff present:

Ms. Terry Munchmore, Legislative Research

Mr. Norm Furse, Revisor of Statutes

Mrs. Diana Lee, Revisor of Statutes

Ms. Margaret Cianciarulo, Committee Secretary

Conferees appearing before the committee:

Mr. Larry Williamson, Executive Director, Kansas Dental Board

Mr. Kevin Robertson, Executive Director, Kansas Dental Association

Others attending:

Please See Attached List.

Recognition

Upon calling the meeting to order, the Chair said that today is Kansas Nurses Day and welcomed all of the nurses from the Kansas State Nurses Association who were here to observe and visit with people and welcomed them to the Public Health & Welfare Committee.

Hearing on SB 425 - concerning dentistry; relating to the administering of sedation & anesthetics

The next order of business was a hearing on SB 425, an act concerning dentistry; relating to the administering of sedation and anesthetics. She asked Mr. Furse to give an overview of the bill. Highlights included:

1) The law currently provides that dentists may be authorized to administer intravenous sedation and general anesthetics subject to rules and regs and qualifications of the dentist as may be adopted by the Board. The language of this bill would change this to eliminate the word "intravenous";

2) The sentence in lines 21 through 26 would be eliminated. This is in regards to dentists who have been regularly engaged in these practices in a competent manner for the three years immediately prior to January 1, 1994, as the date has well expired;

3) New language would be added in lines 26 through 35 to provide different requirements and qualifications established by the Board based upon the type of sedation and general anesthetic the dentist is authorized by the Board to use, and could periodically be renewed and also the requirements that must be met to obtain such renewal, so there would be a possibility of a continuing monitoring of the Board of this authorization to perform this function. Any office of a dentist who is authorized by the Board to administer is subject to inspection to determine if the dentist is in compliance with the rules and regs of the Board;

4) In line 38, current law states that a dentist may utilize an assistant not licensed by the Board in administering nitrous oxide or oxygen or both if the person (here adding new language and law) is certified in pulmonary resuscitation and has satisfactorily completed a course of instruction approved by the Board;

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5) In line 41, the language is modified to include "to be approved by the Board," the course instructions shall include a minimum of six hours at a teaching institution accredited by the American Dental Association "and" include satisfactory completion of courses which offer both didactic and clinical instruction;

6) The bill would become effective on and after July 1, 2005; and lastly

7) On page 2, lines five and six, the "certification in pulmonary resuscitation" language would be deleted.

As there were no questions for Mr. Furse, the Chair then called upon the first proponent to testify, Mr. Larry Williamson, Executive Director, Kansas Dental Board, who stated they are 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. He also offered what the bill would empower the Board to do, which Mr. Furse had explained earlier, including, leaving undisturbed, the provisions that allow a dental assistant to assist in administering nitrous oxygen or oxygen based on documented education and training. He also asked the Committee to note that the effective date of the bill is recommended deliberately so as to accommodate the thorough development of an effective regulatory package to take effect at the same time.

Lastly, he mentioned the fiscal note and based on the regulations as they are applied with regard to inspections, there potentially could be in fiscal year 2006 an increase in financial inspections for inspections, not substantial, but wanted to mention to you at this time rather than at a later date. A copy of his testimony is (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

The Chair then asked for questions from the Committee. Senators Barnett and Mr. Furse asked a range of questions including: are there enough personnel to adequately cover these inspections; what is the typical agent used now for anesthesia (probably come in line with what is termed "conscious sedation" as opposed to general anesthesia assisted with ventilation) are dentists really doing this in their office; would these rules and regs cover things like oximetry, telemetry, reversal of agents, and ability to intubate; referring to "certified in pulmonary resuscitation" on page 1 line 38, usually when someone has a pulmonary arrest they likely are going to have a cardiac arrest with it or shortly after so would "cardiopulmonary resuscitation" be better language or do you think this should remain as is (most courses offered are for cardio - pulmonary resuscitation so perhaps this might be worthy of consideration); and, where it says "see in subsection ©)(1) language on page 1, line 38, do you read this language as relating to the language in lines 41 and following as relating to the unlicensed assistant (does not change the substance but the sequence of the language). The Chair finished the questioning by asking an "unrelated question to this specific bill" but do we in Kansas statutes require liability insurance of a dentist?

She then called upon the second conferee, Mr. Kevin Robertson, Executive Director, Kansas Dental Association (KDA), who stated he did not have written testimony but was strictly here to lend the KDA support on this particular bill and mentioned that there had been an ad hoc committee that has been formed by the Board and representatives of the dental association are also participating trying to draft appropriate rules and regs that will address the issue and this bill simply helps this process along so that the Board can address the concerns.

A discussion ensued between Senators Steineger and Wagle, Mr. Robertson and Mr. Furse regarding the interpretation of the bill, including:

1) Questioning additional responsibilities of the dental assistant - nothing different in this bill that is any different than what current law allows,

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2) Referring to new section (b) lines 36 through 40, can "an assistant" monitor nitrous oxide and oxygen if he or she is not certified in pulmonary resuscitation? Current law allows a dental assistant to monitor these agents if certified in CPR and has completed a Board course;

3) Regarding a dental assistant being a statutory position and levels of assistants - the bill refers to them as "unlicensed personnel"(certification process of a dental assistant to become a certified dental assistant, chair side assistants, and assistants who can super-gingival scale);

4) Would KDA be opposed to adding a minimum level of liability insurance like other practice acts have? KDA's concern, retired dentists practicing in charitable situations through this act their liability is exempt or limited - have physicians been exempt from liability - language in the Torte Claims Act.

The Chair then closed the hearing on this bill. She also informed the Committee she intended to wait to work this bill until next Tuesday allowing time for them to look over.

Adjournment

As there was no further business, the meeting was adjourned. The time was 2:15 p.m. The next meeting is scheduled for Tuesday, February 17, 2004.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

DATE: Thursday, February 12, 2004

NAME	REPRESENTING
Kim Riffel	FHSU
Kevin Robertson	Kansas Dental Assn
Larry Williamson	Kansas Dental Board
Connie Burton	Kansas Farm Bureau
Jim Byrnes	Sen. SALINAS
Deb Andres	Kansas Farm Bureau
Norrene Wingfield	" " "
Jan Kaul	" " "
Lynda Foster	" " "
LynnAnn Clark	Nursing Student KSNA
Audrey M. Davis	Nursing Student KSNA
Liz Stewart	Nursing Student KSNA
Jessica Singer	FHSU - Nursing Student KSNA
Rob [unclear]	HEIN Law Firm
Tom Dales	KDHA
Michelle Peterson	K. Governmental Consulting

16 pm
att.

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KATHLEEN SEBELIUS
GOVERNOR

KANSAS DENTAL BOARD

February 12, 2004

The Honorable Susan Wagle, Chairperson
Senate Committee on Public Health and Welfare
The Capitol, Room 128-S
Topeka, KS 66612

Dear Senator Wagle:

SUBJECT: SB 425 by Senate Committee on Public Health and Welfare

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 change 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.
2. Provide authorization to establish rules and regulations that establish renewal procedures for permits allowing sedation and anesthesia and the requirements necessary to maintain proficiency.
3. Provides for periodic inspections to determine whether dentists are in compliance.
4. Leaves undisturbed the provisions that allow a dental assistant to assist in administering nitrous oxide or oxygen based on documented education and training.

*Senate Public Health & Welfare Committee
Attachment 1-1
Date: February 12, 2004*

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.

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.

Sincerely,

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

Larry A. Williamson
Executive Director