Approved: February 15, 2005
Date

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 1:34 P.M. on February 14, 2005, in Room 526-S of the Capitol.

Committee members absent:
Representative Judy Showalter- excused
Representative Nancy Kirk- excused

Committee staff present:
Melissa Calderwood, Kansas Legislative Research Department
Mary Galligan, Kansas Legislative Research Department
Renae Jefferies, Revisor of Statutes' Office
Gary Deeter, Committee Secretary

Conferees appearing before the committee:
Debra Billingsley, Executive Secretary, Kansas State Board of Pharmacy
Sharon Green, President, State Board of Examiners in Optometry
Gary Robbins, Executive Director, Kansas Optometric Association

Others attending:
See attached list.

The minutes for February 9 and 10 were approved.

Staff gave a briefing on **HB 2156**, saying that the registration of pharmacy technicians was a recent development and that the bill was intended to streamline a cumbersome process of the Board in revoking a member's registration.

The Chair opened the hearing on **HB 2156**.

Debra Billingsley, Executive Secretary, Kansas State Board of Pharmacy, spoke a proponent, saying that of the 2700 pharmacy technicians registered since October 2004, revocation was indicated for six technicians who diverted drugs from their employers, but that the statute's current language required an emergency meeting of the Board to do so. (Attachment 1) Answering a question, Ms. Billingsley said the bill made only one change in the statute.

The hearing was closed on **HB 2156.**

A motion was made, seconded and passed to work bill.

A motion was made and seconded to pass the bill favorably and place it on the Consent Calendar. The motion passed unanimously.

MINUTES OF THE House Health and Human Services Committee at 1:34 P.M. on February 14, 2005, in Room 526-S of the Capitol.

Staff gave a briefing on **HB 2336,** citing previous changes in the optometry licensure statutes: biennial renewal, creating a new category of practice, and raising the statutory maximum for fees. She said the bill creates a level licensure structure, requiring that all optometrists must meet all four levels of practice, including therapeutic licensure by May 31, 2007, and glaucoma licensure by May 31, 2009.

The Chair opened the hearing on **HB 2336**.

Sharon Green, President, State Board of Examiners in Optometry, spoke as a proponent of the bill. (Attachment 2) She said that, as a doctor of optometry, she supported level licensure, a standard of practice current in five other states and being considered in two more. She observed that the present four levels of licensure have become an administrative nightmare–confusing to insurance companies and difficult to for the Board to confirm a doctor's status. She noted that of the 469 practicing optometrists in Kansas, 98% held a therapeutic license and most were working to upgrade their licenses to the 4th level. She stated that the bill would have no economic impact on the state general fund and would have limited impact on optometrists.

Gary Robbins, Executive Director, Kansas Optometric Association, testified in favor of the bill, saying that he continually encouraged members to upgrade their licenses. (Attachment 3) He also recommended an amendment to the bill updating the definition of oral drugs, explaining that new categories of drugs are regularly brought to market, requiring frequent amendments to the statute. He said his proposed amendment, developed in collaboration and agreement with the Kansas Medical Society and the Kansas State Ophthalmologist Society, would provide flexibility in dealing with new drugs. He also noted that the inter-professional advisory committee would become active again through the bill and its amendment.

Committee members' questions elicited the following responses from conferees:

Amy Campbell, Executive Director, Kansas State Ophthalmologist Society, confirmed the Society's agreement on the amendment, saying it was a result of thorough discussion and solid consensus. She also commented that the bill and amendment would revitalize the inter-professional advisory committee and assure that Kansans have a proper standard of care.

The chair commented that the bill may cause some optometrists to lose their licenses, but that the bill will improve patient care, noting that the bill does not expand the scope of practice, but requires that patients be treated by properly trained individuals.

The hearing on **HB 2336** was closed.

A motion was made, seconded, and passed to work the bill and to add the amendments as proposed by Mr. Robbins.

During discussion on the motion, Dr. Green said that the therapeutic level required 100 hours of course work and the glaucoma level involved a two-year management period, but that optometrists could meet the

requirements in the time allotted.

A motion was made and seconded to pass out the bill favorably as amended.

During discussion, a member stated that the bill appeared to be good for the people of Kansas. Staff commented that the new sections in the bill were not referenced and needed clarification.

The motion passed unanimously.

Staff provided a briefing on three bills:

HB 2178–the bill amends the Senior Care Act to include programs for in-home senior care services. Ms. Calderwood noted that the list of consolidated services did not include a definition for preventative health-care services or physical training activities.

HB 2208–enacts a new statute creating a 13-member task force, eight from the Kansas Department of Health and Environment (KDHE), four legislators, and one member appointed by the Governor, with KDHE designating the chair and vice-chair of the task force and providing staffing. The bill requires the task force to hold at least three public meetings in various locations in the state and to prepare a report to be submitted to the Governor and the legislature on January 15, 2007. Ms. Galligan stated that on page 1, the term "local development agency" is not defined and is not used elsewhere in Kansas statutes; that "communities with a high incidence of obesity" is not established; that on page 2, lines 2 and 7, the word "board" is used rather than the term "task force"; that continuing duties of the task force are not given; that there is no ending date for the task force nor any ongoing responsibilities; and that the language regarding health insurance rules on page 3, line 6, is not clearly referenced. Ms. Galligan also noted that there are currently several other bills on obesity.

HB 2330–the bill amends the Radiologic Technologist Practice Act by delaying the implementation of the act until October 1, 2005, and by acknowledging various specialty titles within the scope of licensure. Ron Hein, representing the Kansas Society of Radiologic Technologists, said the term was an umbrella that includes several titles; the bill did not prohibit the designation of technician.

A motion was made, seconded and passed with a modicum of opposition to work **HB 2204.**

A motion was made and seconded to pass the bill out of committee favorably.

An extended discussion ensued. Members made the following comments:

A short-term benefit of the bill will be to encourage physical activity; a longer-term benefit will be to keep more Kansans physically active, thus saving on health-care costs.

MINUTES OF THE House Health and Human Services Committee at 1:34 P.M. on February 14, 2005, in Room 526-S of the Capitol.

While the bill has some merit, there are other things that are more deserving of an exemption to promote fitness and that would benefit more low-income Kansans.

The argument of promoting health and fitness with a sales-tax exemption for membership fees appears specious on its face, especially since most affluent members would not be motivated by the minimal savings.

The problem of obese children was not acceptably addressed by conferees, since most children do not go to health clubs.

An exemption for health clubs is a matter of fairness, since the alternative–YMCA–is not-for-profit and tax-exempt.

As a policy statement, the committee can endorse the bill that exercise is a value to promote.

By passing this bill, the committee makes a statement to encourage physical activity; further, it seems inappropriate for the state to tax physical activity.

This bill as constructed will not increase physical exercise.

The reason the bill was referred to this committee was for us to decide if it has the potential for good public policy. We should support a venture such as this.

By a vote of 11 to 7, the motion passed.

The meeting was adjourned at 2:47 p.m. The next meeting is scheduled for Tuesday, February 15, 2005.

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST

DATE: FEBRUARY 14 2005

NAME	REPRESENTING
DEBORAH STERN	KS. HOSP. ASSN.
Debra Billingsley	KS Bd of Pharmacy
Ward Cook	American Cancer Society
Shveta Shura	KDHE
Amy Campbell	KS State Opthalmological Society
Sharon M. Green, O.D.	KS Board Examiners in Optometry
GARY Robbins	KS Optometric assn
John Peterson	Ks Govt Consulting
Carolyn Middendorf	Ks St Ns Assn
Josie Torres	SLCK
Becky Carson (student Soc Policy)	
Ron Hein	Hein Law Firm, Chartered
Ron Gaches	GBBA
Cheryl Dillard	Coventry Health Care
Wayne Probasco	KS Pod Med assn.
Jared Holroyd	SRS/Medicaid
Jenny Davis	Conlee Consulting
Larry Tobias	Sunflower Foundation

KANSAS
KANSAS BOARD OF PHARMACY
DEBRA BILLINGSLEY, EXECUTIVE DIRECTOR
KATHLEEN SEBELIUS, GOVERNOR

Testimony concerning HB 2156: registration of pharmacy technicians
House Health and Human Services Committee
Presented by Debra Billingsley
On behalf of
The Kansas State Board of Pharmacy
February 14, 2005

Mr. Chairman, Members of the Committee:

My name is Debra Billingsley and I am the Executive Secretary of the Kansas State Board of Pharmacy. Our Board is created by statute and is comprised of six members, each of whom are appointed by the Governor. The Board is responsible for registering pharmacy technicians in the State of Kansas pursuant to K.S.A. 65-1663.

On October 30, 2004, the Board of Pharmacy began to register all pharmacy technicians in Kansas. Subsection (f)(1) of K.S.A. 65-1663 provides that the Board may deny an application for issuance or renewal of any pharmacy technician registration. Subsection (3) also grants the Board the authority to temporarily suspend or temporarily limit the technician registration in accordance with emergency proceedings under the Kansas administrative procedure act, if there is cause to believe that the pharmacy technician's registration would constitute a danger to the public. The statute did not give the board the authority to limit, or revoke a registration other than to provide for temporary suspension under an emergency proceeding.

The Board has only issued pharmacy technician registrations for approximately four months and we have had at least six cases filed regarding diversion of drugs from the registrant's employer. Due to limitations in the statute the Board is required to file an emergency suspension order and to provide a hearing. The most the Board can do to the technician is temporarily suspend the registration. The Attorney General advised the Board that we need language authorizing limitations, suspensions and revocations before we can take any such action.

The Board of Pharmacy takes drug diversion very seriously. These are cases that would warrant a revocation of a registration. If a technician is diverting drugs from his/her employer than we would want to take the most appropriate action available for the safety of the public. This would also provide protection to other states should an individual seek employment across the state lines. The Board would respectfully request that this additional authority to be given to the Board of Pharmacy as it relates to pharmacy technicians.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

LANDON STATE OFFICE BUILDING, 900 SW JACKSON ST, ROOM 560, TOPEKA, KS 66612-1231
Voice 785-296-4056 Fax 785-296-8420 http://www.accesskansas.org/pharmacy/

Attachment 1
HHS 2-14-05

LEVEL LICENSURE FOR OPTOMETRY – A Narrative regarding H.B. 2336

Presented February 14, 2005

1. Introduction

My name is Dr. Sharon Michel Green. I am a doctor of optometry who practices in Lawrence. I am the current president of the State Board of Examiners in Optometry (SBEO) and had been the secretary-treasurer of the Board since 1998. The idea of level licensure for optometrists is not new to the profession. There are already five states that have mandated full scope licensure for their constituents. The most important reason to have all Kansas optometrists practicing at the highest level of licensure is to ensure that all patients are getting the highest quality of care. When doctors receive additional education and push themselves to learn about the most recent medical issues, better referrals can be made and patients can be better educated. Kansas consumers could be assured that whichever optometrist they visit would be practicing at the highest level of licensure.

2. Definitions

NPA: No Pharmaceutical Agents
DPA: Diagnostic Pharmaceutical Agents
TPA: Therapeutic Pharmaceutical Agents, topical and oral
Highest level of licensure: TPA + glaucoma medications

3. History

The use of diagnostic pharmaceutical agents (DPA) by Kansas optometrists was passed by the legislature in 1977. It meant that certain eye drops could be used to dilate the pupil for purposes of diagnosis. The use of topical pharmaceutical agents was passed in 1987 to treat eye infections, glaucoma agents in 1996, and oral drugs in 1999. In 1987 and 1996 it was not mandated that all Kansas licensed optometrists be required to obtain the higher level of licensure. In 1999, all optometrists were required to have the additional education regarding oral medications in order to retain a therapeutic license (TPA). At that time doctors who had only DPA or NPA licenses were not required to upgrade. In not requiring full participation from all our constituents, Kansas optometry now has

Attachment 2
HHS 2-14-05

four different levels of licensure. In addition to being confusing from an administrative perspective, it is misleading to the public who are unaware that optometrists can have such different levels of training and licensure.

4. Current Statistics

Of the 469 practicing optometrists in Kansas, 98% hold a therapeutic license. 305 doctors (65%) are at the highest level of licensure which includes the ability to treat glaucoma. 71% of the remaining therapeutic optometrists are currently working to upgrade their licenses to the highest level. Of the remaining 29%, 13 optometrists would be at age 65 or older by the time the law went into effect. The other 31 optometrists have not considered license upgrade to be a top priority and some have indicated they intend to wait as long as they can. Only 2% are either DPA or NPA.

5. Economic Impact

There would be no economic impact on Kansas consumers or on 98% of Kansas optometrists. The doctors who are licensed at DPA or NPA only would need the greatest amount of additional education which would require additional time out of the office. This time away from the office can be spread out in the next few years. All current active licensees will be required to have TPA licensure by 2007 and glaucoma licensure by 2009, thereby elevating all Kansas optometrists to the highest level of licensure.

If there were no Kansas optometrists who could provide treatment of glaucoma, there would be an economic impact on patients who would have to drive farther in order to receive care. A real example of this is the elderly gentleman who frequently travels to Washington, Kansas to see his optometrist who monitors and treats his glaucoma. In order to receive care at the next nearest doctor's office, this gentleman would have to cross the Kansas border and be treated in Nebraska. It is certainly in the best interest of the public to have all optometrists better trained to detect a condition that might otherwise go undetected.

Testimony on H.B. 2336
House Health and Human Services Committee
February 14, 2005

Thank you, Mr. Chairman and members of the House Health and Human Services Committee for the opportunity to testify on House Bill 2336. I am Gary Robbins Executive Director of the Kansas Optometric Association. We commend the Kansas State Board of Examiners in Optometry for their leadership in ensuring the highest possible standards of eye care by optometrists for the citizens of Kansas. We have been working with our members to assist in making educational opportunities available for those who need additional course work. We are supportive of the goals of House Bill 2336.

We have also been in discussion with the Kansas State Ophthalmological Society and the Kansas Medical Society about updating the definition of oral drugs in the Optometry Law to allow optometrists the flexibility to use new oral drugs with clinically accepted ocular uses that become available. These discussions have been taken seriously and differences of opinion have been expressed by both sides. We have reached an agreement that will provide for future flexibility and allow the opportunity for all parties to have ongoing input through an interprofessional advisory committee which will advise the Kansas State Board of Examiners in Optometry. The two changes are in the balloon below for your consideration. We have deeply appreciated the patience and cooperation of both the Kansas State Ophthalmological Society and the Kansas Medical Society in these discussions.

With these amendments, we would strongly support H.B. 2336.

65-1501a. Definitions. For the purposes of this act the following terms shall have the meanings respectively ascribed to them unless the context requires otherwise:

(a) "Board" means the board of examiners in optometry established under K.S.A. 74-1501 and amendments thereto.

(b) "License" means a license to practice optometry granted under the optometry law.

(c) "Licensee" means a person licensed under the optometry law to practice optometry.

(d) "Adapt" means the determination, selection, fitting or use of lenses, prisms, orthoptic exercises or visual training therapy for the aid of any insufficiencies or abnormal conditions of the eyes after or by examination or testing.

(e) "Lenses" means any type of ophthalmic lenses, which are lenses prescribed or used for the aid of any insufficiencies or abnormal conditions of the eyes.

(f) "Prescription" means a verbal or written order directly from a licensee giving or containing the name and address of the prescriber, the license registration number of the licensee, the name and address of the patient, the specifications and directions for lenses, prisms, orthoptic exercises, low vision rehabilitation services or visual training therapy to be used for the aid of any insufficiencies or abnormal conditions of the eyes, including instructions necessary for the fabrication or use thereof and the date of issue.

(g) "Prescription for topical pharmaceutical drugs or oral drugs" means a verbal or written order directly from a licensee expressly certified to prescribe drugs under the optometry law and giving or containing the name and address of the prescriber, the license registration number of the licensee, the name and address of the patient, the name and quantity of the drug prescribed, directions for use, the number of refills permitted, the date of issue and expiration date.

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(h) "Topical pharmaceutical drugs" means drugs administered topically and not by other means for the examination, diagnosis and treatment of the human eye and its adnexae.

(i) "Dispense" means to deliver prescription-only medication or ophthalmic lenses to the ultimate user pursuant to the lawful prescription of a licensee and dispensing of prescription-only medication by a licensee shall be limited to a twenty-four-hour supply or minimal quantity necessary until a prescription can be filled by a licensed pharmacist.

(j) "Diagnostic licensee" means a person licensed under the optometry law and certified by the board to administer or dispense topical pharmaceutical drugs for diagnostic purposes.

(k) "Therapeutic licensee" means a person licensed under the optometry law and certified by the board to prescribe, administer or dispense topical pharmaceutical drugs for therapeutic purposes and oral drugs, following completion of a fifteen-hour course approved by the board pertaining to the use of oral drugs in ocular therapeutics, except that a person applying for therapeutic licensure who has graduated after January 1, 1999, from a school or college of optometry approved by the board shall not be required to take such course. Therapeutic licensees on the effective date of this act shall complete the fifteen-hour course described in this subsection before May 31, 2000.

(l) "Glaucoma licensee" means a person described in subsections (j) and (k) of this section who is also licensed under the optometry law to manage and treat adult open-angle glaucoma by nonsurgical means, including the prescribing, administering and dispensing of topical pharmaceutical drugs and oral drugs.

(m) "False advertisement" means any advertisement which is false, misleading or deceptive in a material respect. In determining whether any advertisement is misleading, there shall be taken into account not only representations made or suggested by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations made.

(n) "Advertisement" means all representations disseminated in any manner or by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of professional services or ophthalmic goods.

(o) "Health care provider" shall have the meaning ascribed to that term in subsection (f) of K.S.A. 40-3401 and amendments thereto.

(p) "Medical facility" shall have the meaning ascribed to that term in subsection (c) of K.S.A. 65-411 and amendments thereto.

(q) "Medical care facility" shall have the meaning ascribed to that term in K.S.A. 65-425 and amendments thereto.

(r) "Co-management" means confirmation by an ophthalmologist of a licensee's diagnosis of adult open-angle glaucoma together with a written treatment plan which includes (1) all tests and examinations supporting the diagnosis, (2) a schedule of tests and examinations necessary to treat the patient's condition, (3) a medication plan, (4) a target intraocular pressure, (5) periodic review of the patient's progress and (6) criteria for referral of the patient to an ophthalmologist for additional treatment or surgical intervention, except that any co-management plan may be modified only with the consent of both the ophthalmologist and the optometrist and the modification noted in writing on the patient's record.

(s) "Co-management period" means that period of time during which an optometrist co-manages patients either suspected of having or diagnosed as having adult open-angle glaucoma with an ophthalmologist.

(t) "Ophthalmologist" means a person licensed to practice medicine and surgery by the state board of healing arts who specializes in the diagnosis and medical and surgical treatment of diseases and defects of the human eye and related structures.

(u) "Low vision rehabilitation services" means the evaluation, diagnosis, management and care of the low vision patient including low vision rehabilitation therapy, education and interdisciplinary consultation under the direction and supervision of an ophthalmologist or optometrist.

(v) "Oral drugs" means oral antibacterial drugs, oral antiviral drugs, oral antihistamines, oral analgesic drugs, oral steroids, oral antiglaucoma drugs and other oral drugs with clinically accepted ocular uses.

Deleted: and

History: L. 1975, ch. 318, § 1; L. 1987, ch. 235, § 2; L. 1990, ch. 223, § 1; L. 1996, ch. 95, § 2; L. 1999, ch. 23, § 2; Apr. 1.

74-1505. Interprofessional advisory committee; appointment; duties; report to legislature. (a) No later than 30 days following the effective date of this act, the board shall appoint a seven-member committee to be known as the interprofessional advisory committee which, subject to approval of the board, shall have general responsibility for the establishment, review and monitoring of the procedures for co-management by optometrists and ophthalmologists of adult open-angle glaucoma.

(b) The interprofessional advisory committee shall consist of one member of the board appointed by the board who shall serve as a nonvoting chair, together with three optometrists licensed to practice optometry in this state chosen by the board from those nominated by the Kansas optometric association and three

ophthalmologists licensed to practice in this state chosen by the board from those nominated by the Kansas medical society and the Kansas association of osteopathic medicine. The Kansas optometric association and Kansas medical society shall submit six nominees to the board. The Kansas association of osteopathic medicine shall submit two nominees to the board. Persons appointed to the committee shall serve terms of three years and without compensation. All expenses of the committee shall be paid by the board.

(c) The committee shall submit recommendations to the board on the following:

(1) An ongoing quality assessment program including the monitoring and review of co-management of patients pursuant to subsection (d) of K.S.A. 65-1505 and amendments thereto;

(2) requirements for the education and clinical training necessary for glaucoma licensure, which shall be submitted to the board within 90 days following appointment;

(3) criteria for evaluating the training or experience acquired in other states by applicants for glaucoma licensure;

(4) requirements for annual reporting during a glaucoma licensee's co-management period to the committee and the board which shall be submitted to the board within 90 days following appointment;

(5) the classes and mix of patients either suspected of having or diagnosed as having adult open-angle glaucoma who may be included in the number of co-management cases required by subsection (d) of K.S.A. 65-1505 and amendments thereto, which shall be submitted to the board within 90 days following appointment; and

(6) requirements for annual continuing education by glaucoma licensees.

(d) After considering the recommendations of the committee pursuant to subparagraph (c), the board shall proceed to adopt procedures to confirm that each applicant has completed the requirements for glaucoma licensure.

(e) The interprofessional advisory committee shall also review the educational and clinical prerequisites of optometrists to use oral pharmaceutical drugs and identify those classes of oral pharmaceutical drugs which are effective treatments for ocular diseases and conditions. The interprofessional advisory committee and the board shall prepare a report of the results of co-management pursuant to subsection (r) of K.S.A. 65-1501a and amendments thereto and findings on the subject of the advisability of expanding the scope of practice of optometrists to prescribe, administer and dispense oral pharmaceutical drugs, which report shall be submitted to the legislature not later than January 1, 1999.

(f) The interprofessional advisory committee shall review the advisability of expanding the scope of practice of optometrists to prescribe certain oral drugs for ocular conditions for children under six years of age. The committee and the board shall prepare a report on the findings of the committee on the advisability of such a scope of practice expansion. Such report shall be submitted to the legislature not later than January 1, 2002.

(g) The interprofessional advisory committee shall review new classes of drugs with ocular uses and advise the Kansas State Board of Examiners in Optometry.

(h) This section shall be part of and supplemental to the optometry law.

History: L. 1996, ch. 95, § 5; L. 1999, ch. 23, § 10; Apr. 1.

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