

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman James Barnett at 1:30 P.M. on January 31, 2005 in Room 231-N of the Capitol.

Committee members absent: Mark Gilstrap- excused
Susan Wagle- excused

Committee staff present: Terri Weber, Kansas Legislative Research Department
Norm Furse, Office of Revisor of Statutes
Whitney Nordstrom, Committee Secretary

Conferees appearing before the committee: Barb Conant, Director of Communications, Department of Aging

Others attending: See attached list

Hearing of SB 92

SB 92--Abuse of persons in adult care homes, duties of department on aging

Upon calling the meeting to order, Chairperson Barnett asked for any bill introductions. As there were none, the next order of business was a hearing on **SB 92**, an act relating to the department of aging; concerning duties thereof; amending K.S.A. 2004 Supp. 39-1404 and repealing the existing section. The Chair asked Ms. Terri Weber, Legislative Research, to give an overview of the bill. Ms. Weber stated that there was one amendment to K.S.A. 2004 Supp. 39-1404 and was located on lines 15-16.

As there were no questions for Ms. Weber, Chairperson Barnett called upon the first proponent, Ms. Barb Conant, Communication Director of Department on Aging. A copy of her testimony is (Attachment 1) attached hereto and incorporated into the Minutes as referenced. Ms. Conant stated that one statutory reference was not amended during the 2004 session so that the current statute does not include the Kansas Department on Aging as having responsibility for investigating reports of abuse, neglect and exploitation. She also mentioned KDOA has already assumed those responsibilities so there is no fiscal impact associated with this bill.

Chairperson Barnett asked if there were any questions for Ms. Conant. As there were none, and there were no opponents or neutral conferees, or written testimonies, the Chair asked the Committee if they would like to take action on **SB 92**.

Senator Brungardt motioned that SB 92 be passed and placed on the Consent Calendar. Senator Jordan seconded the motion. Motion passed.

Discussion on SB 10

SB 10--Schools; self-administration of medication

The next order of was discussion of **SB 10**, an act concerning schools and school districts; relating to the self-administration of medication; amending K.S.A. 2004 Supp. 72-8252 and repealing the existing section. The chair asked Mr. Norm Furse, Revisor of Statutes, to give an overview of the bill. A copy of his overview is (Attachment 2) attached hereto and incorporated into the Minutes as referenced. Mr. Furse's overview included the following:

- 1) Federal Conformity
- 2) On page 1, line 25: the word unlimited would be changed to limited
- 3) On page 2, line 7: the word may would be changed to shall
- 4) On page 2, lines 3-4: will be changed to K-12
- 5) On page 2, lines 21-26: Federal requirement
- 6) On page 2, lines 40-41: Note policy change re liability

CONTINUATION SHEET

MINUTES OF THE Senate Public Health and Welfare Committee at 1:30 P.M. on January 31, 2005 in Room 231-N of the Capitol.

- 7) On page 3, lines 14-15: language from federal act
- 8) On page 3, lines 24-29: allows Board of Education to accept exceptions, the word resolution would be changed to policy
- 9) On page 3, line 30: the expiration date would be eliminated

Other policy questions that Mr. Furse included were:

- 1) Protection for schools and personnel if items exchanged or not disposed of properly?
- 2) Should teachers with whom student comes into contact be informed of the permission to self-medicate?

Chairperson Barnett thanked Mr. Furse for his overview and asked if HIPPA compliance should be a concern of the Committee at this time. The Chairperson then asked the Committee for any questions.

Questions for Mr. Furse came from Senators Schmidt, Journey and Palmer asking on page 2, lines 21-22 if there was a difference between "provider" and "practitioner", if a child must show proficiency, and language questions on page 2, section 5, line 34.

As there were no further questions Chairperson Barnett stated that the Committee would now work **SB 10**.

Senator Journey motioned to change the word "unlimited" to "limited" on page 1, line 25. Senator Brungardt seconded the motion. Motion passed.

Senator Journey motioned to change the word "may" to "shall" on page 2, line 7. Senator Brungardt seconded the motion. Motion passed.

Senator Journey stated that **SB 10** is a distinct improvement from past legislation but feels that the deleted section from page 2, lines 40-41 should be reinserted. Senator Journey motioned that on page 2, deleted section from lines 40-41 be reinserted. Senator Palmer seconded the motion. Motion passed.

Discussion on the language change on page 3, line 12 from Senators V. Schmidt, Journey, and Palmer included: if back-up supply of medication is not a school can the student not self-medicate, with amendment would parents be required to supply back-up medication, what is the intent of this bill to require a back-up medication or require a place to store the back-up, and who defines "immediate access"?

Senator Palmer recommended that if a back-up is available it be reworded that "any back-up" be accessible.

Senator Journey motioned to amend SB 10 by changing page 2, line 12 to read "any back-up" medication. Senator V. Schmidt seconded the motion. Motion passed.

Senator V. Schmidt motioned to change on page 3, line 24 the word resolution to policy. Senator Palmer seconded the motion. Motion passed.

Senator Brungardt motioned to remove the expiration date on page 3, line 30. Senator Jordan seconded the motion. Motion passed.

Chairperson Barnett then asked the Committee to address the two questions raised by Mr. Furse. The committee has addressed question one. Senator Palmer suggests a new section should be added after line 32 on page 2 to include a requirement that teachers be notified that a student has been given permission to carry medication and self-medicate if necessary, in order to address question #2.

Chairperson Barnett asks Mark Tallman, Kansas School Board Association, if he sees any problems with this recommendation.

Senator Palmer motioned to amend SB 10 by inserting proposed section (Attachment 3). Senator Journey seconded the motion. Motion passed.

CONTINUATION SHEET

MINUTES OF THE Senate Public Health and Welfare Committee at 1:30 P.M. on January 31, 2005 in Room 231-N of the Capitol.

Action on the bill

The Chair then asked the committee if there was any further discussion on **SB 10**. With none, Senator Haley motioned to advance the legislation as amended. Senator Jordan seconded the motion. Motion passed.

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 1, 2005.

PLEASE SIGN IN

January 31, 2005

Please Print

Name:

Barb Conant	KDOA
MARK DESETTI	KNEA
Josie Terry	SILCK
Diane Glyn	KSBM
Andy D'Ercolo	Kansas Action for Children
Fred Stamm	SOFF
Mchelle Peterson	Kansas Governmental Consulting
Ileen Meyer	KDHE
Judy Keller	American Lung Assn
Ryan Conant	
Callie Jill Danhor	KS Trial Lawyers Assoc.
Chip Wheelen	Asn of Osteopathic Med.
Carolyn M. J. J. J.	Ks St. Ns Assn
Mike Reel	Sachs Braden Barber & Assoc.



KANSAS

DEPARTMENT ON AGING
PAMELA JOHNSON-BETTS, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Jan. 31, 2005

TO: Senate Committee on Public Health and Welfare

FROM: Barbara Conant
Director of Communications/Legislative Liaison

RE: SB 92

Sen. Barnett and members of the Senate Committee on Public Health and Welfare, thank you for the opportunity to appear before you today in support of SB 92.

During the 2004 legislative session, Kansas law (K.S.A. 39-1404) was amended to clarify the role of the Department in protecting adult care home residents from abuse, neglect or exploitation. One statutory reference was not amended at that time so that the current statute does not include the Kansas Department on Aging as having responsibility for investigating reports of abuse, neglect and exploitation. SB 92 adds KDOA to the agencies that are required to investigate and report on claims of abuse.

KDOA has already assumed those responsibilities with the 2004 transfer of the Licensure, Certification and Enforcement Division from the Kansas Department of Health and Environment, so there is no fiscal impact associated with this bill.

Thank you for the opportunity to appear before you and we ask your support of SB 92.

*Senate Public Health and Welfare
1-31-05 Attachment #1*

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SENATE BILL No. 10

By Legislative Educational Planning Committee

12-30

9 AN ACT concerning schools and school districts; relating to the self-
10 administration of medication; amending K.S.A. 2004 Supp. 72-8252
11 and repealing the existing section.
12

13 Be it enacted by the Legislature of the State of Kansas:

14 Section 1. K.S.A. 2004 Supp. 72-8252 is hereby amended to read as
15 follows: 72-8252. (a) As used in this section:

16 (1) "Medication" means a medicine prescribed by a health care pro-
17 vider for the treatment of ~~anaphylactic reactions~~ anaphylaxis or asthma
18 which is prescribed by: (A) A physician licensed to practice medicine and
19 surgery; (B) an advanced registered nurse practitioner issued a certificate
20 of qualification pursuant to K.S.A. 65-1131, and amendments thereto,
21 who has authority to prescribe drugs as provided by K.S.A. 65-1130, and
22 amendments thereto; or (C) a physician assistant licensed pursuant to the
23 physician assistant licensure act who has authority to prescribe drugs pur-
24 suant to a written protocol with a responsible physician under K.S.A. 65-
25 28a08, and amendments thereto including, but not ~~unlimited~~ limited, any med-
26 icine defined in section 201 of the federal food, drug and cosmetic act,
27 inhaled bronchodilators and auto-injectible epinephrine.

28 (2) "Health care provider" means: (A) A physician licensed to prac-
29 tice medicine and surgery; (B) an advanced registered nurse practi-
30 tioner issued a certificate of qualification pursuant to K.S.A. 65-1131, and
31 amendments thereto, who has authority to prescribe drugs as provided
32 by K.S.A. 65-1130, and amendments thereto; or (C) a physician assis-
33 tant licensed pursuant to the physician assistant licensure act who has
34 authority to prescribe drugs pursuant to a written protocol with a re-
35 sponsible physician under K.S.A. 65-28a08, and amendments thereto.

36 (3) "School" means any school property or grounds upon which is
37 located a building or structure used by a school district or an accredited
38 nonpublic school for student instruction or attendance or extracurricular
39 activities of students enrolled in kindergarten or any of the grades one
40 through 12 or at any school sponsored activity or event public or accred-
41 ited nonpublic school.

42 (4) "Self-administration" means a student's discretionary use of such
43 student's medication pursuant to a prescription or written direction from

Federal Conformity

The report of the Legislative Educational Planning
Committee states: Changes that would be made to
the Kansas law to conform to major provisions of
the federal legislation would be to extend the
self-medication policy to elementary children,
require that the student demonstrate the ability
to use the medication to the school nurse, and
require that the school keep backup medication if
it is provided by the parent.

limited

Sam
Anuse
Senate Public Health and Welfare
1-31-05 Attachment #2

1 a health care provider.

2 (b) Each school district shall adopt a policy authorizing the self-ad-
3 ministration of medication by students ~~in grades 6 enrolled in kindergar-~~
4 ~~ten or any of the grades 1 through 12. A school district may adopt a policy~~
5 ~~authorizing the self-administration of medication for students in kinder-~~
6 ~~garten and grades 1 through 5.~~ A student shall meet all requirements of
7 a policy adopted pursuant to this subsection. Such policy ~~[may] include~~ shall
8 ~~but shall not be limited to:~~

9 (1) A requirement of a written statement from the student's health
10 care provider stating the name and purpose of the medication; the pre-
11 scribed dosage; the time the medication is to be regularly administered.
12 and any additional special circumstances under which the medication is
13 to be administered; and the length of time for which the medication is
14 prescribed;

15 ~~(2) a requirement that the student provide a written authorization~~
16 ~~from the student's health care provider and parent or guardian stating~~
17 ~~that such student has been instructed on self-administration of the med-~~
18 ~~ication and is authorized to do so in school; and~~

19 ~~(3) a requirement that the student's parent or guardian provide writ-~~
20 ~~ten authorization for the self-administration of medication.~~

21 (2) a requirement that the student has demonstrated to the health
22 care provider or such provider's designee and the school nurse or such
23 nurse's designee the skill level necessary to use the medication and any
24 device that is necessary to administer such medication as prescribed. If
25 there is no school nurse, the school shall designate a person to act in the
26 place of the school nurse for the purposes of this subsection;

27 (3) a requirement that the health care provider has prepared a writ-
28 ten treatment plan for managing asthma or anaphylaxis episodes of the
29 student and for medication use by the student during school hours;

30 (4) a requirement that the student's parent or guardian has completed
31 and submitted to the school any written documentation required by the
32 school, including the treatment plan prepared as required by paragraph
33 (3) and documents related to liability; and

34 (5) any other requirement imposed by the school district pursuant to
35 this section and subsection (e) of K.S.A. 72-8205, and amendments
36 thereto.

37 (c) ~~Schools may~~ A school district shall require annual renewal of pa-
38 rental authorization for the self-administration of medication.

39 (d) A school district, and its officers, employees and agents, which
40 authorizes the self-administration of medication ~~in compliance with the~~
41 ~~provisions of this section~~ shall not be held liable in any action for any
42 damage, injury or death resulting directly or indirectly from the self-
43 administration of medication.

Federal requirement: "the student has demonstrated to the health care practitioner (or such practitioner's designee) and the school nurse (if available) the skill level necessary to use the medication and any device that is necessary to administer such medication as prescribed..."

Note policy change re liability

1 (e) ~~The~~ A school district shall provide written notification to the par-
 2 ent or guardian of a student that the school *district* and its *officers*, em-
 3 ployees and agents are not liable for ~~any damage~~, injury or *death* resulting
 4 *directly or indirectly* from the self-administration of medication. The par-
 5 ent or guardian of the student shall sign a statement acknowledging that
 6 the school ~~incurs~~ *district and its officers, employees or agents incur* no
 7 liability for ~~any damage~~, injury or *death* resulting *directly or indirectly*
 8 from the self-administration of medication and agreeing to *release*, in-
 9 demnify and ~~holding hold~~ the school; and its *officers*, employees and
 10 agents, harmless ~~from and~~ against any claims relating to the self-admin-
 11 istration of such medication.

12 (f) A school district shall require that back-up medication ~~if provided~~
 13 by the student's parent or guardian ~~be kept at the student's school in a~~
 14 location to which the student has immediate access in the event of an
 15 asthma or anaphylaxis emergency.

be
 and
 lines 14 and 15 state language from the federal act

16 (g) A school district shall require that information described in par-
 17 agraphs (3) and (4) of subsection (b) be kept on file at the student's school
 18 in a location easily accessible in the event of an asthma or anaphylaxis
 19 emergency.

20 (h) An authorization granted pursuant to subsection (b) shall allow a
 21 student to possess and use such student's medication at any place where
 22 a student is subject to the jurisdiction or supervision of the school district
 23 or its officers, employees or agents.

24 (i) A board of education may adopt a ~~resolution~~ pursuant to subsec-
 25 tion (e) of K.S.A. 72-8205, and amendments thereto, which:

policy (Revisor)

26 (1) Imposes requirements relating to the self-administration of med-
 27 ication which are in addition to those required by this section; and

28 (2) establishes a procedure for, and the conditions under which, the
 29 authorization for the self-administration of medication may be revoked.

30 [(j) The provisions of this section shall expire on June 30, 2005 2006.]

31 Sec. 2. K.S.A. 2004 Supp. 72-8252 is hereby repealed.

32 Sec. 3. This act shall take effect and be in force from and after its
 33 publication in the statute book.

Other Questions

1. Protection for schools and personnel if items exchanged or not disposed of properly?
2. Should teachers with whom student comes into contact be informed of the permission to self-medicate?

Senator Palmer's amendment

SB 10—Am.

2

1 student's medication pursuant to a prescription or written direction from
2 a health care provider.

3 (b) Each school district shall adopt a policy authorizing the self-ad-
4 ministration of medication by students ~~in grades 6 enrolled in kindergar-~~
5 ~~ten or any of the grades 1 through 12. A school district may adopt a policy~~
6 ~~authorizing the self-administration of medication for students in kindergar-~~
7 ~~ten and grades 1 through 5. A student shall meet all requirements of~~
8 a policy adopted pursuant to this subsection. Such policy ~~may~~ **shall** in-
9 clude, but shall not be limited to:

10 (1) A requirement of a written statement from the student's health
11 care provider stating the name and purpose of the medication; the pre-
12 scribed dosage; the time the medication is to be regularly administered,
13 and any additional special circumstances under which the medication is
14 to be administered; and the length of time for which the medication is
15 prescribed;

16 ~~(2) a requirement that the student provide a written authorization~~
17 ~~from the student's health care provider and parent or guardian stating~~
18 ~~that such student has been instructed on self-administration of the med-~~
19 ~~ication and is authorized to do so in school; and~~

20 ~~(3) a requirement that the student's parent or guardian provide writ-~~
21 ~~ten authorization for the self-administration of medication.~~

22 (2) a requirement that the student has demonstrated to the health
23 care provider or such provider's designee and the school nurse or such
24 nurse's designee the skill level necessary to use the medication and any
25 device that is necessary to administer such medication as prescribed. If
26 there is no school nurse, the school shall designate a person to act in the
27 place of the school nurse for the purposes of this subsection;

28 (3) a requirement that the health care provider has prepared a writ-
29 ten treatment plan for managing asthma or anaphylaxis episodes of the
30 student and for medication use by the student during school hours;

31 (4) a requirement that the student's parent or guardian has completed
32 and submitted to the school any written documentation required by the
33 school, including the treatment plan prepared as required by paragraph
34 (3) and documents related to liability; and

35 **(5) a requirement that all teachers responsible for the student's**
36 **supervision shall be notified that permission to carry medications**
37 **and self-medicate has been granted; and**

38 ~~(5)~~ (6) any other requirement imposed by the school district pursuant
39 to this section and subsection (e) of K.S.A. 72-8205, and amendments
40 thereto.

41 (c) ~~Schools may~~ A school district shall require annual renewal of pa-
42 rental authorization for the self-administration of medication.

43 (d) A school district, and its officers, employees and agents, which

Senate Public Health and Welfare
1-31-05
Attachment #3