

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 February 22, 2005 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Emalene Correll, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Norm Furse, Office of Revisor of Statutes
Whitney Nordstrom, Committee Secretary

Conferees appearing before the committee:

Jerry Slaughter, Kansas Medical Society
Larry Buening, Kansas Board of Healing Arts
Thomas Bell, Kansas Hospital Association
Larrie Ann Lower, Kansas Association of Health Plans

Others attending:

See attached list.

Hearing on SB 254

SB 254– Persons not engaged in practice of healing arts

Upon calling the meeting to order the Chair announced there would be a hearing on **SB 254**, an act concerning those not engaged in the practice of healing arts; amending K.S.A. 65-2872 and repealing the existing section. Chairperson Barnett requested that Ms. Emalene Correll, Legislative Research Department, give a brief overview of the bill.

As there were no questions and/or comments for Ms. Correll, the Chair called upon the first proponent conferee to testify. Jerry Slaughter, Kansas Medical Society, stated that this legislation allows us to identify and develop common-sense exceptions to the licensure requirement, so the confusion and inconvenience are minimized, without undermining the valid structure of state-based licensure, which promotes accountability and quality assurance. A copy of his testimony is (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

The Chair asked the Committee for any questions and/or comments for Mr. Slaughter. Emalene Correll clarified language in the rules and regulations. Senator Palmer asked how often out of state orders occur and will there be any added restrictions due to this legislation.

Chairperson Barnett called the Committee's attention to the written testimony submitted by Larry Buening, Kansas Board of Healing Arts, in support of **SB 254**. A copy of his testimony is (Attachment 2) attached hereto and incorporated into the Minutes as referenced.

The Chair then called the Committee's attention to the written testimony submitted by Thomas Bell, Kansas Hospital Association, in support of **SB 254**. A copy of his testimony is (Attachment 3) attached hereto and incorporated into the Minutes as referenced.

Chairperson Barnett called the Committee's attention to the written testimony submitted by Larrie Ann Lower, Kansas Association of Health Plans, in support of **SB 254**. A copy of her testimony is (Attachment 4) attached hereto and incorporated into the Minutes as referenced.

As there were no opponent or neutral conferees, Chairperson Barnett asked for question and/or comments from the Committee. Having none, the Chair closed the hearing on **SB 254**.

CONTINUATION SHEET

MINUTES OF THE Senate Public Health and Welfare Committee at 1:30 P.M. on February 22, 2005 in Room 231-N of the Capitol.

Final action on SB 254

The Chair then asked the Committee if they would like to take action on the above legislation.

Senator V. Schmidt motioned to accept recommended amendments. Senator Jordan seconded the motion. Motion Passed.

Senator Haley motioned to favorably pass legislation as amended. Senator Palmer seconded the motion. Motion Passed.

Adjournment

Chairperson Barnett requested that Richard Morrissey, KDHE, give a progress report on SB 217.

As there was no further business, the meeting was adjourned at 2:00 p.m.


The next meeting is scheduled for Monday, March 7, 2005.



623 SW 10th Avenue
Topeka, KS 66612-1627
785.235.2383
800.332.0156
fax 785.235.5114

www.KMSonline.org

To: Senate Public Health and Welfare Committee

From: Jerry Slaughter
Executive Director 

Date: February 22, 2005

Subject: SB 254; concerning out of state physician orders

The Kansas Medical Society appreciates the opportunity to appear in support of SB 254, which amends the Healing Arts Act to make it possible for Kansas-based health care facilities to provide services, under specified circumstances, which are ordered by practitioners licensed in other states. Currently, a physician must be licensed in Kansas to give a valid medical order. The strict interpretation of that requirement has caused confusion and inconvenience for patients. This situation is particularly troublesome in the greater Kansas City area involving Missouri physicians ordering diagnostic or other procedures that their patients then want carried out in Kansas hospitals or diagnostic facilities.

SB 254 authorizes the Healing Arts Board to promulgate regulations identifying circumstances in which professional services may be performed in this state based on an order by a practitioner licensed in another state. The current regulatory framework has remained largely unchanged over the years, even though technology, communication, service delivery and patient mobility have all changed remarkably. This legislation allows us to identify and develop common-sense exceptions to the licensure requirement, so that confusion and inconvenience are minimized, without undermining the valid structure of state-based licensure, which promotes accountability and quality assurance. Allowing the Board to develop regulations which can be updated as technology and service delivery continue to evolve, provides us with a reasonable, flexible approach to dealing with this issue. We urge you to report SB 254 favorably. Thank you.

Senate Public Health & Welfare
2-22-05
Attachment #1

KANSAS BOARD OF HEALING ARTS

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR



KATHLEEN SEBELIUS, GOVERNOR

MEMO

TO: Senate Committee on Public Health and Welfare

FROM: Lawrence T. Buening, Jr. *LTB*
Executive Director

DATE: February 22, 2005

RE: S. B. No. 254

Thank you for the opportunity to provide information regarding S.B. No. 254. The State Board of Healing Arts met on Saturday, February 12, 2005, reviewed the provisions of this bill and expressed its support for the amendments made to K.S.A. 65-2872.

It is important to view the practice of the healing arts as occurring in the location of the patient in order that the full resources of the state are available for the protection of that patient. The Board has long held this position. In 1994, the Board adopted K.A.R. 100-26-1 that states persons who practice the healing arts and who, as part of that practice, issue an order for services on an individual located in Kansas shall be deemed to be practicing in Kansas and must have a Kansas license. This rule was adopted by the Board in response to inquiries that had been received regarding what was then the fairly recent advent of telemedicine across state lines.

New subsection (r) to K.S.A. 65-2872 would give the Board the authority to adopt rules and regulations governing the services which will be performed in Kansas but are ordered by a practitioner licensed in another state. It is anticipated that these rules and regulations would address a number of possible situations, including: (1) orders for services given to a patient while both the practitioner and patient are located outside the state of Kansas but which will be performed in Kansas; and (2) orders that must be carried out in Kansas due to unforeseen circumstances.

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235 S. Topeka Boulevard, Topeka, Kansas 66603-3068
Voice 785-296-7413 Fax 785-296-0852 www.ksbha.org

Senate Public Health & Welfare
2-22-05
Attachment #2

In the past few years, traditional medical practice has rapidly changed due to technical advances. These advances offer opportunities for improved health care delivery. Health care may now be delivered over wide geographic areas. This challenges our nation's state-based health care licensure system to facilitate the growth of this evolving mode of patient care while maintaining a high standard of health care and ensuring public protection. Some states have created a special purpose license that authorizes a practitioner just to practice the healing arts across state lines. The Legislature has not created a separate category for these circumstances and the Board is not supportive of a different type of license for just the practice across state lines. However, there should be a mechanism by which practice across state lines is permissible under certain circumstances.

The changes made by S.B. No. 254 will allow the Board to consider those circumstances in which professional services may be performed in Kansas by a non-Kansas licensed practitioner but at the same time ensure that the patients are protected from improper, unauthorized and unqualified practice.

Thank you for the opportunity to appear in support of S.B. No. 254. I would be happy to respond to any questions.



Thomas L. Bell
President

To: Senate Committee on Public Health and Welfare
From: Thomas L. Bell, President
Date: February 22, 2005

WRITTEN TESTIMONY IN SUPPORT OF SENATE BILL 254

The Kansas Hospital Association is pleased to support Senate Bill 254 which would enable Kansans to receive health care services in this state even if those services were ordered by a physician in another state.

This proposed amendment to K.S.A. 65-2872 would enable hospitals and health care providers to accept orders presented by a patient who been seen by a physician in another state. For example, under current law if a person is on vacation in Colorado and suffers a broken arm, any follow-up orders for physical therapy that are written by a Colorado physician cannot be honored in Kansas. Someone else traveling on their way across the country may have an order from their home physician to have weekly blood work drawn if they are taking anti-coagulants. Under current law, requiring these persons to see a Kansas physician and therefore duplicate the services that have already been provided or making a consumer jump through hoops to obtain a prescription from a Kansas doctor is a waste of medical resources and subjects them to needless expense.

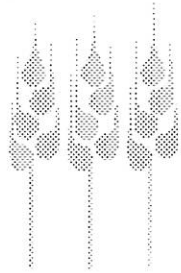
Persons who live on, or near our state borders should have the ability to see a physician in one state and be treated in a facility that is housed in another state. If a person lives in Missouri and sees their local physician but chooses to receive specialized treatment at the University of Kansas Hospital, they should be allowed to do so. By clarifying the current law, Kansas caregivers will no longer need to turn away patients who are unaware of the law and are stunned when told that Kansas hospitals cannot honor out-of-state medical orders. As stated in SB 254, through rules and regulations the Kansas State Board of Healing Arts will serve as the gatekeeper as to which services can be ordered from out-of-state practitioners.

For these reasons, the Kansas Hospital Association asks for your support of Senate Bill 254.

Senate Public Health & Welfare
2-22-05
Attachment #3

Kansas Hospital Association

215 SE 8th Ave. • PO Box 2308 • Topeka, KS 66601-2308 • (785) 233-7436 • FAX: (785) 233-6955 • www.kha-net.org



Kansas Association of Health Plans

1206 SW 10th St.
Topeka, KS 66604

785-233-2747
Fax 785-233-3518
kahp@kansasstatehouse.com

TO: The Senate Public Health and Welfare Committee

FROM: Larrie Ann Lower
Executive Director

DATE: February 22, 2005

RE: Testimony in support of SB 254; out of state physician orders

Mister Chairman and members of the Committee. Thank you for allowing the Kansas Association of Health Plans to submit written testimony.

The KAHP is a nonprofit association dedicated to providing the public information on managed care health plans. Members of the KAHP are Kansas licensed health maintenance organizations, preferred provider organizations and other entities that are connected to managed care. KAHP members serve most all of the Kansans enrolled in a Kansas licensed HMO. KAHP members also serve the Kansans enrolled in HealthWave and medicaid managed care and also many of the Kansans enrolled in PPO's and self insured plans. We appreciate the opportunity to provide comment on SB 254.

KAHP supports allowing a patient to see an in-network physician in a bordering state yet receive services ordered by that physician at or by another in-network provider located in Kansas. This issue is important to health plans operating in the Kansas City bi-state area. KAHP members include in their networks physicians licensed only in Missouri yet, we may have patients who wish to receive the services ordered at another in-network provider simply because it's closer to their home located in Kansas.

Thank you for your consideration.

Senate Public Health & Welfare
2-22-05
Attachment #4