

Approved: February 6, 2006
Date

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 1:30 P.M. on February 2, 2006, in Room 526-S of the Capitol.

All members were present except Representatives Landwehr and Garcia, both of whom were excused.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Mary Galligan, Kansas Legislative Research Department
Rena Jefferies, Revisor of Statutes' Office
Gary Deeter, Committee Secretary

Conferees appearing before the committee:

Pam Scott, Executive Director, Kansas Funeral Directors and Embalmers Association
Mary Mulryan, Fiscal Administrator, Kansas Board of Emergency Services
Chris Way, President, Kansas Emergency Services Association
Debra Billingsley, Executive Director, Kansas Board of Pharmacy
Stanley Langhofer, Nurse Administrator, Kansas Dialysis Services

Others attending:

See attached list.

The Chairman reminded members that today is the final day for introduction of committee bills. Representative Kirk requested introduction of a committee bill that would regulate clinics and facilities where office-based surgeries and special procedures are performed. A motion was made, seconded and passed to sponsor the bill.

Pam Scott, Executive Director, Kansas Funeral Directors and Embalmers Association, requested the committee sponsor a bill to amend K.S.A. 16-304 to eliminate the waiting requirement before funds can be paid out of a pre-arranged funeral agreement account held by a financial institution. (Attachment 1) By motion and second, the Committee agreed.

The Chair opened the hearing on SB 263.

Mary Mulryan, Fiscal Administrator, Kansas Board of Emergency Services, stated that the board was neutral on the bill and has always had an administrator on the board even without the statute. (Attachment 2) She noted that the original bill in the Senate increased membership from 13 to 15 members with two administrators required to be on the board; however, the Senate amended the bill to retain the original 13-member board with the stipulation that at least one of the three members actively involved in emergency medical service shall be an administrator for an ambulance service. She stated that retaining the original number removes the fiscal impact of the bill, adding that public input has always been a part of board meetings.

Chris Way, President, Kansas Emergency Services Association, commented that the association had no objection to the bill as it is presently drafted and amended.

A fiscal note ([Attachment 3](#)) and a supplemental note ([Attachment 4](#)) were made available to the committee.

The Chair closed the hearing.

The Chair opened the hearing on **HB 2678**.

Debra Billingsley, Executive Director, Kansas Board of Pharmacy, reminded the committee about **HB 2225** from the 2005 session, which deleted the section that is now a separate bill. ([Attachment 5](#)) She listed those entities presently licensed by the Board of Pharmacy, which, besides retail pharmacies, include a variety of institutions and services—nearly all those involved in distribution of prescription drugs—noting that the board does not license federally funded entities or physician-owned clinics. She expressed concern regarding accountability for drug diversion and counterfeiting issues, expressing the hope that, if the Kansas Department of Health and Environment (KDHE) regulates dialysis clinics, the bill will contain language to absolve the Board of Pharmacy. Answering a question, she said the bill as presently drafted will resolve her concerns.

Stanley Langhofer, Nurse Administrator, Kansas Dialysis Services, spoke as a proponent. ([Attachment 6](#)) He replied to a question posed to Ms. Billingsley that dialysis clinics are certified by Medicare, licensed and inspected by KHDE, and exercise rigorous control of drugs. He observed that there are 1800 dialysis patients in Kansas served by 42 facilities, noting that Medicare is the primary payer for patients. He said all clinics have a medical director and follow a multi-disciplinary model of care. Citing the history of the bill, he said in 1998 the Kansas legislature passed **K.S.A. 65-1661** requiring Medicare-approved renal dialysis facilities in Kansas to be supervised by a pharmacist consultant; however, the Board of Pharmacy has never provided regulations to implement the law nor have they taken steps to enforce it. Also he said that this extra layer of bureaucracy tends to limit access to health care, since the added expense creates a barrier by increasing costs to patients and limiting expansion of dialysis providers.

A fiscal note was provided for the bill. ([Attachment 7](#))

The hearing was closed.

The minutes for 2-1-06 were approved.

The meeting was adjourned at 2:07 p.m. The next meeting is scheduled for Monday, February 6, 2006.

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

DATE: February 2 2006

NAME	REPRESENTING
Delta Billingsley	Board of Pharmacy
John J. Gaddan	Board of Pharmacy
John Heitner	Kansas EMS Assn.
Kerry McQue	KANSAS EMS ASSOC.
Chris Way	Kansas EMS Assoc.
TERRY L DAVID	Kansas EMS Assoc.
Mary E Mulvan	Ks Bd of EMS
Pam Scott	Ks Funeral Directors Assn
BILL Brady	Ks Licensure Council
Nathan Weinert	Rep. Trimmar
Cooper Martin	Rep Phelps
Stan Langhofer	Kansas Dialysis Services
Bill Aibers	DAVITA
Derek Hein	Hein Law Firm
Dale Wasson	Winfield Area EMS
Joe Megredy	Butler Co EMS

February 2, 2006

To: House Health and Human Services Committee

From: Pam Scott, Executive Director

Re: Bill Introduction

Chairman Morrison and members of the Committee, on behalf of the Kansas Funeral Directors and Embalmers Association, I would like to request introduction of a bill which would amend K.S.A. 16-304 to eliminate the waiting requirement before funds can be paid out of a pre-arranged funeral agreement account held by a bank, credit union, or savings and loan association.

Under current law, funds can not be paid until at least five days have expired from the date of death of the person for whose services the funds were paid. The statute would continue to require that acceptable proof of death and a verified statement setting forth that all of the terms and condition of the agreement have been fully performed have been provided to the financial institution.

Thank you for your consideration of this request. I would be happy to respond to any questions you may have.

Statutory changes recommended below:

16-304. Same; payments upon death, conditions; balances; notice; liability. (a) If any balance remains in the account upon the death of the person for whose services the funds were paid, the same shall not be paid by such bank, credit union or savings and loan association to the person, association, partnership, firm or corporation ~~until the expiration of at least five days after the date of death of the person for whose services such funds were paid. The funds shall not be paid by the bank, credit union or savings and loan association~~ until a certified copy of the death certificate of such person, a verification of death form or other acceptable proof of death shall have been furnished to the bank, credit union or savings and loan association, together with a verified statement setting forth that all of the terms and conditions of such agreement have been fully performed by the person, association, partnership, firm or corporation.

(b) If any balance remains in the fund after disposition of the fund in accordance with the terms of the agreement, contract or plan such balance shall inure to the benefit of the estate of the purchaser of the agreement, contract or plan unless the purchaser

Attachment 1
HHS 2-2-06

was a person who received medical assistance from the department of social and rehabilitation services or a deceased surviving spouse of a recipient of medical assistance and the bank, credit union or savings and loan association has received written notice from the department of social and rehabilitation services, the funeral home or the recipient, stating that medical assistance has been expended on the recipient for which the department of social and rehabilitation services may have a claim. If such notice has been received, the balance shall be paid to the secretary of social and rehabilitation services or the secretary's designee to the extent of medical assistance expended on the deceased recipient.

(c) The bank, credit union or savings and loan association shall not be liable to the department of social and rehabilitation services for the balance in the fund if written notice has not been received and the balance of the fund has been paid to the estate of the purchaser of the agreement as provided above.

History: L. 1953, ch. 54, § 4; L. 1973, ch. 86, § 5; L. 1976, ch. 97, § 4; L. 1983, ch. 76, § 4; L. 1989, ch. 48, § 73; L. 1996, ch. 123, § 1; L. 2002, ch. 106, § 2; L. 2004, ch. 36, § 1; July 1.



KANSAS

DENNIS ALLIN, M.D., CHAIR
ROBERT WALLER, ADMINISTRATOR

BOARD OF EMERGENCY MEDICAL SERVICES

KATHLEEN SEBELIUS, GOVERNOR

February 2, 2006

The Honorable Jim F. Morrison, Chair
2006 Legislature
House Committee on Health and Human Services
Room 526-S, Statehouse
Topeka Kansas

Re: SB 263, as amended by Senate Committee on Federal and State Affairs

Dear Representative Morrison:

I wish to provide you with the following informational testimony from the Board of Emergency Medical Services regarding SB 263, as amended by Senate Committee on Federal and State Affairs.

When SB 263 was introduced during the 2005 Legislature, the previous administrator, David Lake, submitted written neutral testimony with a fiscal impact of \$6,385. This fiscal impact was based on subsistence and travel of the proposed two additional Board members. In the context of that testimony the suggestion was made to have at least one administrator of the two to represent a part-time or volunteer basic life support service.

With testimony from two proponents and the neutral testimony provided by the Board, with no opposition, The Senate Committee on Federal and State Affairs amended the original bill to retain a 13 member Board, but to stipulate at least one member of the three members who are actively involved in an emergency medical service shall be an administrator for an ambulance service.

I have provided on the next page of this testimony a table which identifies our current Board member structure with the statutory requirements for each member. The members with asterisks are currently Administrators, or as we refer to them, Service Directors, of an ambulance service with a valid permit from our Board. Without a statutory requirement of appointing a Service Director to the Board, we have had representation of several Service Directors for many years.

Attachment 2
HHS 2-2-06

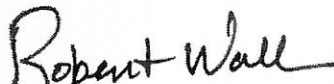
The Honorable Jim F. Morrison, Chair
 House Committee on Health and Human Services
 Testimony of SB 263, as amended
 February 1, 2006

	Requirements	Appointed By	Term Expires
Holmes, Brian, L., MD	Kansas Medical Society Member, Actively involved in EMS	Governor	May 31, 2009
Boaldin, Bob Allen, Comm.	County Commissioner, Population less than 15,000	Governor	May 31, 2008
Mathes, Duane, Comm.	County Commissioner, No Specified Population	Governor	May 31, 2006
Emler, Jay, Sen.	Legislator--Appointed by the Senate President	President of the Senate	May 31, 2009
Steineger, Chris, Sen.	Legislator--Appointed by Senate Minority Leader	Senate Minority Leader	May 31, 2006
Kelley, Kasha, Rep.	Legislator--Appointed by the Speaker of the House	Speaker of the House	May 31, 2009
Long, Margaret, Rep.	Legislator--Appointed by House Minority Leader	House Minority Leader	May 31, 2006
Behan, J. R.	Instructor/Coordinator	Governor	May 31, 2006
Allin, Dennis M., MD	Hospital Administrator, Actively involved in EMS	Governor	May 31, 2009
Ryan, Michael L.	*Member of Firefighting Unit, Unit is Provider of EMS	Governor	May 31, 2007
Megredy, Joe	Attendant-Actively Involved in EMS (MICT)	Governor	May 31, 2009
McClain, James	*Attendant-Actively Involved in EMS Volunteer EMS (EMT)	Governor	May 31, 2006
Wasson, Dale	*Attendant-Actively Involved in EMS (MICT)	Governor	May 31, 2009

*Currently Administrators of ambulance services with a current valid permit issued by the Board.

As this legislation currently stands, The Board of Emergency Medical Services does not oppose it's passage. Thank you for the opportunity to provide you with this information.

Sincerely,



Robert Waller, Administrator
 Kansas Board of Emergency Medical Services

February 25, 2005

The Honorable Pete Brungardt, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 143-N
Topeka, Kansas 66612

Dear Senator Brungardt:

SUBJECT: Fiscal Note for SB 263 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 263 is respectfully submitted to your committee.

SB 263 would increase the number of members on the Board of Emergency Medical Services from 13 to 15 members. The additional members would be appointed by the Governor from administrators of ambulance services.

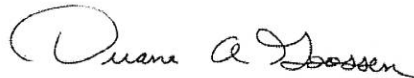
Estimated State Fiscal Effect				
	FY 2005 SGF	FY 2005 All Funds	FY 2006 SGF	FY 2006 All Funds
Revenue	--	--	--	--
Expenditure	--	--	--	\$6,385
FTE Pos.	--	--	--	--

Attachment 3
HHS 2-2-06

The Honorable Pete Brungardt, Chairperson
February 25, 2005
Page 2—263

Enactment of SB 263 would require estimated expenditures of \$6,385 from the Emergency Medical Services Fee Fund in FY 2006. The costs are for the additional board members' expenses in mileage, lodging, and subsistence. Any fiscal effect resulting from this bill would be in addition to amounts included in *The FY 2006 Governor's Budget Report*.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Mary Mulryan, Emergency Medical Services

SESSION OF 2005

SUPPLEMENTAL NOTE ON SENATE BILL NO. 263

As Amended by Senate Committee on
Federal and State Affairs

Brief*

SB 263 would amend the membership of the Emergency Medical Services Board to require that at least one member of the three members who are actively involved in emergency medical service shall be an administrator for an ambulance service. The number of members on the Board is not increased by this bill.

Background

A representative from Labette County Emergency Medical Services testified in support of the bill, and a representative from American Medical Response submitted written testimony in support of the bill. The Director of Emergency Medical Services provided neutral testimony on the bill. No opponents testified.

SB 263, as introduced, would have increased the size of the Emergency Medical Services Board from 13 to 15 members to provide that two administrators of ambulance services be included on the Board. The Committee amended the bill to require that at least one member of the three members who are actively involved in emergency medical service shall be an administrator for an ambulance service.

The fiscal note from the Director of Budget was based upon the bill as introduced which would have increased the Board membership by two people. The fiscal note indicates that the passage of the bill would have increased the expenditure of the Emergency Medical Services Fee Fund by an estimated \$6,385.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Attachment 4
HHS 2-2-06



KANSAS

BOARD OF PHARMACY
DEBRA L. BILLINGSLEY, EXECUTIVE DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

Testimony concerning HB 2678: renal dialysis facility pharmacists
House Health and Human Services Committee
Presented by Debra Billingsley
On Behalf of
The Kansas State Board of Pharmacy
February 2, 2006

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 regulating pharmacy professionals and pharmacy related entities.

In 1998, HB 2835 was introduced at the request of representatives of Baxter International, a corporation that specializes in medical services, equipment and supplies. Although Baxter had been delivering home dialysis supplies and devices directly to home kidney dialysis patients in Kansas at the behest of a physician, technically they were distributing drugs to a consumer, an act that is not permitted under the Pharmacy Act. Baxter's bill was to get them in compliance with pharmacy law. Following action by the House on HB 2835, it was determined that freestanding renal dialysis facilities were also in violation of Kansas pharmacy laws by dispensing and administering drugs to patients without benefit of a pharmacy license. An amendment was proposed requiring licensure of these facilities. The facility would be required to have a pharmacist consultant. The consultant would be responsible for developing procedures, proper control and accountability for the medications and devices, and to maintain complete and accurate records of medications. The consultant would not have to be full-time but they would have to be a pharmacist.

The bill was then amended to require the Board of Pharmacy to supply a pharmacist consultant for the freestanding renal dialysis facilities if the licensee was unable to find a consultant. The bill passed in this form. K.S.A. 65-1661 provided that the license fee for a facility would be those applicable to registration of a pharmacy. Therefore, a renal dialysis facility license would be \$140 the first year and \$125 every year thereafter. The statute also stated that the Board of Pharmacy could adopt regulations as necessary.

For whatever reason, the Board never licensed a single facility. In 2004 the Board recognized that there were approximately 44 renal dialysis facilities in Kansas that were not appropriately licensed. The Board reviewed the statute and concluded that it may have been the requirement that the Board supply the pharmacy consultant as the reason that the Board never pursued licensure of these facilities. Since the Board had not pursued licensure since 1998 they did not believe it acceptable or fair to turn these cases over for prosecution for failure to obtain a license. Instead, the Board filed HB 2225 in 2005 asking the legislature to remove the language requiring the Board to supply a pharmacist. It was the Board's intent to have this language removed and then to contact the facilities and ask them to comply with the licensure statutes. HB 2225 made it out of the House because there was no opposition. However, when it was heard in the Senate Committee a group of facility owners requested that the whole statute be repealed. The matter was then tabled.

The Board had further discussions with some dialysis facility owners during 2005. Some dialysis industry people met with the Board of Pharmacy and asked the Board to delay implementing rules and regulations or requiring licensure. They indicated to the Board that they would follow up with the 2006 legislature to have the Board's jurisdiction repealed.

The Board of Pharmacy is willing to license renal dialysis facilities if that is the legislature's pleasure. The Board would ask that the provision in the statute requiring the Board to supply the pharmacist be deleted from the statute if the legislature does not repeal the Board's authority.

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

Testimony concerning HB 2678: Repeal of 65-1661 (Renal dialysis facility pharmacy)

House Health and Human Services Committee

Presented by Stan Langhofer

On behalf of

Kansas Dialysis Services

February 2, 2006

Chairman Morrison, Vice Chair Mast and members of the Committee, my name is Stanley Langhofer and I am the nursing administrator of Kansas Dialysis Services (KDS). KDS is a provider of kidney dialysis treatments for patients in Northeast Kansas with clinics in Topeka, Lawrence, Manhattan, Ottawa and Sabetha.

There are more than 1,800 patients with End Stage Renal Disease (ESRD) in Kansas whose unstable health requires 4-hour, life-sustaining dialysis treatments, three times per week. Unlike other patient populations, the point of treatment for ESRD patients is the outpatient renal dialysis facility.

There are 42 free standing kidney dialysis facilities that are Medicare approved and have Medicare contracts with the State Department of Health and Environment. We have been in contact with representatives of each of these facilities to discuss the repeal legislation before us today and I can report to you that each and every one of them support my comments today.

The Medicare program is the primary payor for ESRD patients, therefore renal dialysis facilities have to meet the Medicare conditions for coverage. Compliance with these conditions is monitored through the detailed Medicare survey and certification process in Kansas.

Among other things, the Medicare conditions require renal dialysis facilities to have a medical director, as well as a multidisciplinary health care team, all of whom specialize in the care of ESRD patients. These health care teams consist of physicians, nurses, dietitians, social workers and specially-trained patient care technicians.

In 1998, the Kansas legislature passed K.S.A. 65-1661 requiring Medicare-approved renal dialysis facilities in Kansas to, among other things, be supervised by a pharmacist consultant. The Board of Pharmacy has never promulgated regulations to implement the law in this regard and until recently never had taken steps to enforce it.

Attachment 6
HHS 2-2-06

There has, to date, never been a complaint filed with the Board of Pharmacy pertaining to the quality of care provided to ESRD patients by renal dialysis facilities. Furthermore, Medicare does not require renal dialysis facilities to staff, or be supervised by, pharmacists or pharmacist consultants.

This requirement, in our view, adds unneeded expense to dialysis facilities that are struggling to provide care to Medicare and Medicaid patients amidst shrinking reimbursement. For example, last year the State of Kansas Medicaid paid \$100 for a four-hour dialysis treatment while our costs ranged from \$124.40 to \$164.42 at KDS. This problem has been worsening and to add expense now would be economically devastating for dialysis patients as well as dialysis providers.

THIS IS ALSO AN ACCESS TO HEALTH CARE ISSUE.

Due to the economics that we face, KDS has not opened a new dialysis facility in 7 years although we have been asked repeatedly to do so. Rural access to kidney dialysis treatment is already severely limited and if 65-1661 is implemented, then this situation will worsen.

WHY KIDNEY DIALYSIS?

Duly licensed “practitioners,” such as physicians, surgeons, dentists and nurses under the supervision of a duly licensed practitioner, are expressly excluded from pharmacy regulation.

Certain “medical care facilities,” such as community mental health centers, facilities for the mentally retarded and hospices, are also expressly excluded from this regulation.

Other “medical care facilities,” such as, diagnostic and treatment centers, rehabilitation facilities, nursing homes, hospitals and ambulatory surgical centers, are excluded from the pharmacy regulation if they do not have a pharmacy registered by the Board of Pharmacy.

Renal dialysis facilities are the only “medical care facilities” that are required to obtain registration from the Board of Pharmacy as a renal dialysis facility pharmacy, notwithstanding the fact that such facilities: a) do not have pharmacies; and b) are supervised by duly licensed “practitioners,” such as physicians and nurses, who are expressly excluded from pharmacy regulation.

We do not need this extra layer of bureaucracy placed on a struggling segment of health care providers. Given the close supervision provided by ESRD health care professionals, the quality monitoring provided by Medicare, the ESRD Network for Kansas, and the reasons provided above, we ask for your support on the repeal of 65-1661.

January 31, 2006

The Honorable Jim Morrison, Chairperson
House Committee on Health and Human Services
Statehouse, Room 143-N
Topeka, Kansas 66612

Dear Representative Morrison:

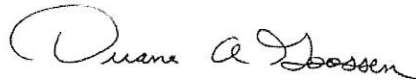
SUBJECT: Fiscal Note for HB 2678 by House Committee on Health and Human Services

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2678 is respectfully submitted to your committee.

HB 2678 would repeal the provision in the Kansas Pharmacy Act that requires free-standing renal dialysis facilities that dispense drugs to consumers to be licensed with the Board of Pharmacy.

The Board of Pharmacy states that none of the free-standing renal dialysis facilities are currently licensed. Therefore, passage of HB 2678 would have no fiscal effect.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Debra Billingsley, Board of Pharmacy

Attachment 7
HHS 2-2-06