

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 16, 2007 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
Nobuko Folmsbee, Office of Revisor of Statutes
Jim Wilson, Office of Revisor of Statutes
Morgan Dreyer, Committee Secretary

Conferees appearing before the committee:

Andrew Allison, Deputy Director and Acting Medicaid Director, Kansas Health Policy Authority
Mack Smith, Executive Secretary, Kansas Board of Mortuary Arts
Sen. Vickie Schmidt
Lawrence Buening, Executive Director, Kansas Board of Healing Arts
Debra Billingsley, Executive Secretary, Kansas Board of Pharmacy
Julie Hein, behalf of Kansas Pharmacy Coalition
Dan Morin, Kansas Medical Society

Others attending:

See attached list.

Upon calling the meeting to order, Chairman Barnett asked that the Committee review the Minutes for January 11, 2007 for approval at the end of the meeting.

Presentation on Kansas Health Wave Program - Funding and Eligibility Overview

Chairman Barnett called upon Andy Allison, Deputy Director, Kansas Health Policy Authority who presented information and statistics on concerning the Health Wave Programs. Highlights of his presentation included:

1. Program Structure for Kansas Health Wave
 - a. Background
 - b. Federal Funding
 - c. State Programs
2. Stairstep Income Thresholds Distinguish Medicaid and SCHIP Eligibility
3. Proposed Change in Stairstep Eligibility for SFY 2008 - Healthy Kansas First Five

A copy of his presentation is (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

The Chair asked for questions or comments from the Committee. Questions came from Senators Palmer, V. Schmidt, and Wagle regarding the reason for two different firms within Managed Care, beneficiaries, Western Kansas, Federal and State requirements.

The Chair then asked for Emalene Correll to give a brief reading and to explain the changes to **SB 72, SB 62, and SB 63**. The chair announced the next order of business would be to open a hearing on **SB 72**.

Hearing on SB 72 – An act concerning mortuary arts; relating to funeral directors and licenses.

Fiscal Note for **SB 72** was available for the Committee to view. A copy of the fiscal note is (Attachment 2) attached hereto and incorporated into the Minutes as referenced.

Chairman Barnett then called upon proponent conferee, Mack Smith, Executive Secretary, Kansas Board of Mortuary Arts, stated that the bill is a result of the annual review of statues and regulation done by the Mortuary Arts Board and is simply meant to update and better define language and definitions in KSA 65-1713 and KSA 65-1751. A copy of his testimony is (Attachment 3) attached hereto and incorporated into the

CONTINUATION SHEET

MINUTES OF THE Senate Public Health and Welfare Committee at 1:30 P.M. on January 16, 2007 in Room 231-N of the Capitol.

Minutes as referenced.

The Chair asked for questions or comments from the Committee. Questions came from Senator Haley and Emalene Correll, regarding requirements in other states like Missouri, and licensing concerning assistants and directors.

With no further discussion of conferees, Chairman Barnett closed the hearing on **SB 72**.

The motion was made the Senator Brungardt that the bill be moved out favorably. It was seconded by Senator Schmidt and the motion carried.

Chairman Barnett opened the hearing on **SB 62**.

Hearing on SB 62 – An act restricting the prescribing, ordering, dispensing, administering, selling, supplying or giving certain amphetamine or sympathomimeticamine controlled substances.

Fiscal Note for **SB 62** was available for the Committee to view. A copy of the fiscal note is (Attachment 4) attached hereto and incorporated into the Minutes as referenced.

The Chair then called upon his first proponent conferee, Senator Vickie Schmidt who states her support of **SB 62** which from her experience concerning a prescriber's office to not provide a diagnosis on a prescription. The statute restricts the purpose of these drugs and will continue to do so with this proposed legislation. A copy of her testimony is (Attachment 5) attached hereto and incorporated into the Minutes as referenced.

Chairman Barnett called upon his second proponent conferee, Lawrence Buening, Executive Director, Kansas Board of healing Arts who stated his support for **SB 62** and provided a letter from Bradley Marples, M.D. to express substantial policy reasons for making the proposed amendments. A copy of his testimony is (Attachment 6) attached hereto and incorporated into the Minutes as referenced.

The Chair then called upon the third proponent conferee, Debra Billingsley, Executive Secretary, Kansas Board of Pharmacy who stated that the Board of Pharmacy supports the amendment because of convenience to the patient. The changes poses no health or safety risk. A copy of her testimony is (Attachment 7) attached hereto and incorporated into the Minutes as referenced.

The Chair called upon his fourth proponent conferee, Julie Hein, on behalf of Kansas Pharmacy Coalition, who stated her support on **SB 62**, and that it will help make the delivery of certain medications easier and less cumbersome for patients and pharmacists alike. She also stated her support for **SB 63** simply clarifies that all prescriptions need to be renewed at least on an annual basis. A copy of her testimony is (Attachment 8) attached hereto and incorporated into the Minutes as referenced.

Chairman Barnett called upon his last proponent conferee, Dan Morin, Kansas Medical Society who stated his support for **SB 62**. No written testimony was available for the Committee.

The Chair announced that written testimony was provided by Charles Wheelen, Kansas Association of Osteopathic Medicine in support of **SB 62**. A copy of her testimony is (Attachment 9) attached hereto and incorporated into the Minutes as referenced.

With no more conferees' to give testimony and no questions from the Committee, Chairman Barnett closed the hearing on **SB 62**.

The motion was made by Senator Haley to move the bill out favorably on the consent calendar. It was seconded by Senator Gilstrap and the motion carried.

Chairman Barnett opened the hearing on **SB 63**.

Hearing on SB 63 – An Act concerning filling prescriptions

CONTINUATION SHEET

MINUTES OF THE Senate Public Health and Welfare Committee at 1:30 P.M. on January 16, 2007 in Room 231-N of the Capitol.

Fiscal Note for **SB 63** was available for the Committee to view. A copy of the fiscal note is (Attachment 10) attached hereto and incorporated into the Minutes as referenced

The Chair called upon the only proponent conferee, Senator Vickie Schmidt, who stated the current law allows for the refill after the one year period of time with some further clarification. With this bill th pharmacist will contact the prescriber after the one year date fo the refill authorization. The purpose of this change is to at least require contact between the pharmacist and prescriber once a year on a p.r.n. refill. A copy of the fiscal note is (Attachment 11) attached hereto and incorporated into the Minutes as referenced.

The Chair asked for questions or comments from the Committee. Questions came from Senator Wagle regarding p.r.n. on a prescription, and certain prescriptions that are good for longer than a year.

With no more conferees' to give testimony and no questions from the Committee, Chairman Barnett closed the hearing on **SB 63**.

The motion was made by Senator Schmidt to move the bill out favorably. It was seconded by Senator Brungardt and the motion carried.

The Chair announced that the final item on the agenda was for the Minutes to be approved for the Senate Public Health and Welfare Committee on January 11, 2007.

The motion was made by Senator Schmidt to approve the Minutes. It was seconded by Senator Jordan and the motion carried.

As there was no further business, the meeting was adjourned at 2:25 p.m.

The next meeting is scheduled for Wednesday, January 17, 2007.

Jan. 16, 2007

Senate Public Health and Welfare Committee

Please Sign In

MAXIE M. CLINE	HOME CONSULTING GROUP
Ann Galtley	
Debra Billingsley	Bd of Pharmacy
Janet Smith	Sci. Health System
Luke Thompson	KHPA
Corrie Edwards	KS Health Consumer Council
Carol Terry	SILCK
Teresa Schulab	Oral Health Kansas
Ann Galtley	
Austin Hayden	Intn
Ann McDonald	KCSL
Meghan Peterson	Capital Strategies
Felony Opus Williams	LPA
J. Mc	KHI
Tom Bruno	ERS
TK Shively	KS LEGAL SERVICES
Tina Fisher	Ks. Qumetric Association
Chip Wheelan	KS Assn of Osteopathic Med
Julie Hein	
LARRY BUENING	BD OF HEALING ARTS

Senate Public Health and Welfare Committee

Please Sign In

KEVIN ROBERTSON

Cathleen O'Han

James D. McDonald

Dennis Priest

Suzanne Winkle

Stephen C. Corrado

Nancy Marie

Brian Smart

THU. MURPHY

Pat Kibler

Mack Smith

Cara Cameron-Creve

Priska Hane

Heeri Spiekman

KS State Assn

KS St. Ns. Assn.

Health Care

SRS

KAC

KAC

Kansas Medical Society

CHC / FHP

Port Hickey & Co

Pharma

KS Mortuary Arts Board

KAMU

Federico Consulting

KAITA



MARCIA J. NIELSEN, Ph.D. H
Executive Director

ANDREW ALLISON, PhD
Deputy Director

SCOTT BRUNNER
Chief Financial Officer

Testimony on:
Kansas HealthWave Program – Funding and Eligibility Overview

presented to:
Senate Committee on Public Health and Welfare

by:
Dr. Andrew Allison
Deputy Director and
Acting Medicaid Director

January 16, 2007

For additional information contact:

Luke Thompson
Kansas Health Policy Authority

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Topeka, KS 66612
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Senate Public Health and Welfare
Attachment #1
January 16, 2007
Committee

Senate Committee on Public Health and Welfare
January 16, 2007

Kansas HealthWave Program – Funding and Eligibility Overview

Good afternoon, Mr. Chairman. I am Andy Allison, Deputy Director of the Kansas Health Policy Authority and Acting Medicaid Director. Thank you for this opportunity to address the Senate Committee on Public Health and Welfare.

Given the expected focus on health coverage by this committee and others during this session, we believe it would be helpful to briefly explain the structure of the Kansas HealthWave program, how it relates to Medicaid and the State Children's Health Insurance Program (SCHIP) funding, and how it provides medical benefits for Kansans. To supplement this testimony we have attached a reference chart depicting income-related eligibility for children in our HealthWave program, and a brief description of the Governor's Healthy Kansas First Five proposal to expand coverage for low-income children and pregnant women.

Program Structure for Kansas HealthWave

Background. Health insurance plays an important role in the U.S. health care system, spreading costs to ensure access to care and prevent catastrophic financial loss. However, affordable private health insurance is not available to all Americans, especially the poor and those with predictable health costs, such as the elderly and disabled, for whom private insurance markets are both expensive and unstable. To address these chronic gaps in private insurance markets, states and the Federal government have invested in at least three major health insurance programs since the 1960s: Medicare, Medicaid, and the State Children's Health Insurance Program (SCHIP). Medicare provides traditional health insurance services for the nation's elderly and disabled. Medicaid supplements Medicare for low-income seniors and insures low-income women and children. SCHIP provides health insurance to an additional group of low-income children. Today Medicare covers about 13% of the Kansas population, while Medicaid and SCHIP cover about 10%. About 65% of Kansas' population is privately insured, and 11% remain uninsured.

Federal Funding. Medicaid and the State Children's Health Insurance Program (SCHIP) are Federal programs that provide matching funds for state-run insurance programs. Both Medicaid and SCHIP are contained in the Social Security Act of 1965 (SSA): Medicaid was authorized as a part of the original SSA legislation and can be found in Title XIX of the Act; SCHIP was added as Title XXI of the SSA in 1997. The Federal match rate for SCHIP is slightly higher than Medicaid (72% v. 60% in Kansas), but unlike Medicaid, SCHIP matching funds are subject to a state-specific cap, or allotment. In Kansas, SCHIP is available state-wide to children who are Kansas residents from birth to age 19 who are not eligible for Medicaid and who live in families with incomes up to 200 percent of federal poverty level (FPL) (\$33,200 annually for a family of three). Medicaid covers children at lower levels of income.

State Programs. Medicaid and SCHIP are funding sources tied to specific Federally-determined populations. The state uses those funding sources to purchase health care through both managed care and fee-for-service programs. The managed care program is called "HealthWave," KHPA's best-known and most widely advertised product line. Both Medicaid- and SCHIP-eligible children and families have been enrolled in HealthWave since FY 2002. By state law, all 34,791 SCHIP children must be enrolled in managed care, which means all are enrolled in HealthWave. As of January 2007, about 145,000 Medicaid beneficiaries – mothers

Kansas HealthWave Program – Funding and Eligibility Overview

Kansas Health Policy Authority ♦ Presented on: 1/16/07

and children – are also eligible to be enrolled in HealthWave. To distinguish the Medicaid and SCHIP populations within HealthWave, KHPA often refers to the HealthWave-XIX and HealthWave-XXI populations, a direct indication of the SSA funding rules and eligibility criteria that apply to the HealthWave program.

Stairstep Income Thresholds Distinguish Medicaid and SCHIP Eligibility

Eligibility for public health insurance in Kansas can be based on family income, disability, or other specific health care needs, e.g., long-term care or community-based support. Most Medicaid - and all SCHIP - enrollees are eligible solely because of their family's low income. These populations also comprise the vast majority of our HealthWave program. Income-based eligibility in Medicaid and SCHIP is tied to Federal Poverty Levels (FPL). Medicaid covers the poorest Kansas children, while SCHIP covers children with incomes that exceed Medicaid limits but are less than 200% of the FPL. Because Medicaid income thresholds decline with age, the dividing line between Medicaid and SCHIP poverty-related eligibility is commonly referred to as a "stairstep." This stairstep is illustrated with a bold line in Attachment 1.

- The highest Medicaid income threshold is 150% of the FPL and applies to infants less than one and their pre- and post-partum mothers.
- The next highest Medicaid income threshold is 133% of the FPL applies to children ages 1 through five.
- The lowest eligibility ceiling for children is 100% of FPL and applies to children ages 6 through 18.
- SCHIP funding is used to provide health coverage for children in each age group above the Medicaid eligibility levels up to 200% of FPL.

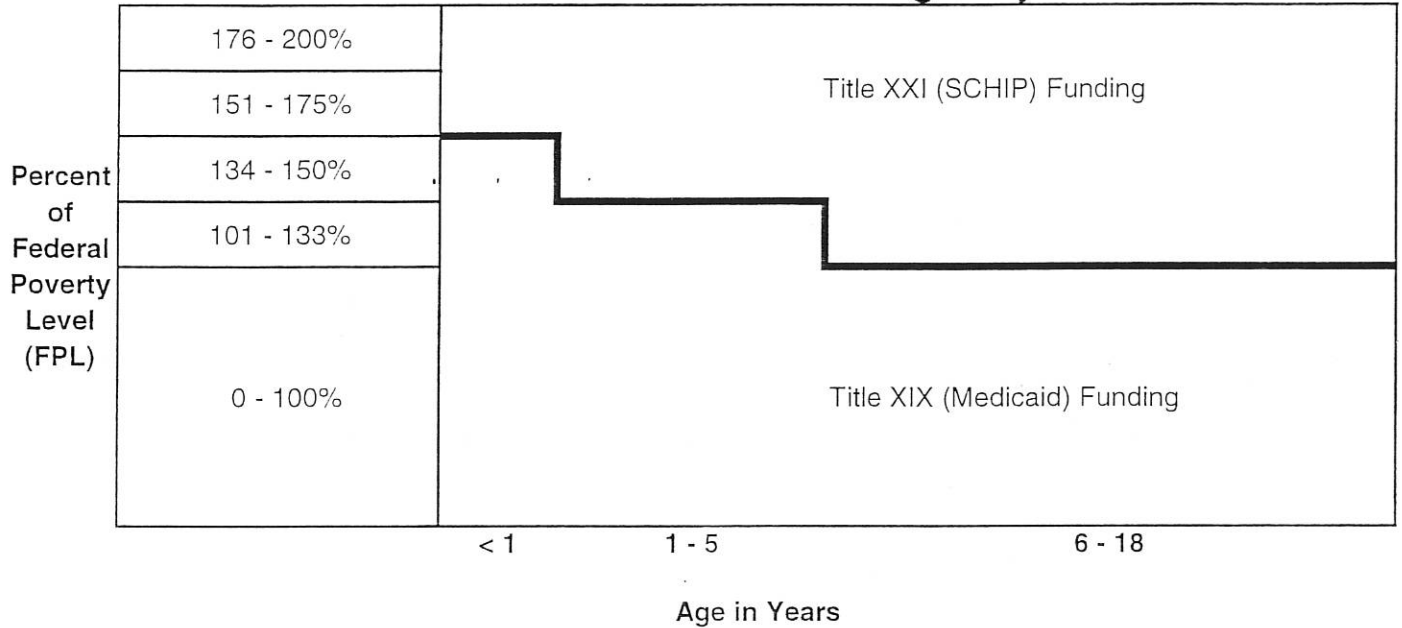
Summary

The Kansas Health Policy Authority's vision is to coordinate health and health care for a thriving Kansas. A key principle in accomplishing this vision is for each Kansan to have access to patient centered health care. Two of KHPA's core programs — Medicaid and SCHIP — are designed to address these needs for specific populations. I hope my testimony today provides you with helpful background information on the income eligibility thresholds for these programs and how these programs can be used to benefit Kansans.

Thank you for your time and I would be happy to answer questions.

ATTACHMENT 1

HealthWave Income Eligibility



Federal Poverty Level (FPL) for a Household of Three (3)

Percent of Federal Poverty Level (FPL)	Income Thresholds
200%	\$33,200
175%	\$29,050
150%	\$24,900
133%	\$22,078
100%	\$16,600

1-4

ATTACHMENT 2

Proposed Change in Stairstep Eligibility for SFY 2008 – Healthy Kansas First Five

The Kansas Health Policy Authority is committed to providing access to care, especially care that is cost effective for the state in the long term. Approximately 15,000 Kansas children five-years old and younger are uninsured. To help give our children the critical healthy start in life, KHPA proposes expanding access to care for children through the creation of the Healthy Kansas First Five Program. This program would ensure that all children age five and under have access to affordable health care coverage, by expanding income-appropriate HealthWave buy-in options for families that currently do not qualify for coverage.

To provide coverage options for Kansas children under the age of five, KHPA proposes to expand the stairstep income eligibility thresholds in these age ranges. Let me explain how this would work.

The upper income limit for the HealthWave program would increase from the current level of 200% of the poverty level (yearly income of approximately \$33,200 for a family of three) to 235% of the poverty level, and to create a state-only funded HealthWave buy-in option for young children in families up to 300% of the poverty level. Both components require families to pay a premium related to their level of income. Above 300% of poverty, families would be allowed to enroll their children at the full actuarial cost of the HealthWave benefit. To remain within Federal spending limits for the HealthWave program, this proposal may require some families with incomes between 133% and 200% of poverty be transferred from HealthWave Title XXI to HealthWave Title XIX coverage. Medicaid eligibility for pregnant women would also be increased to approximately 185% of poverty, increasing expectant mothers' access to prenatal care.

This program was introduced last year by Governor Sebelius but not funded by the legislature. The KHPA Board considers access to care for Kansans a critical component of a coordinated health agenda for Kansas and this program is particularly a high priority this upcoming legislative session.

The KHPA Board voted in its November 2006 meeting to designate Healthy Kansas First Five as its top program priority for the 2007 legislative session. In addition, presenters at the various Board's Town Hall meetings offered support to this program. It is estimated to cost between \$4 million and \$6 million, annual cost SGF. Governor Sebelius has included \$4 million SGF and \$6 million All Funds for the State Fiscal Year 2008 Kansas Budget.



Kathleen Sebelius, Governor
 Duane A. Goossen, Director

<http://budget.ks.gov>

January 16, 2007

The Honorable Jim Barnett, Chairperson
 Senate Committee on Public Health and Welfare
 Statehouse, Room 120-S
 Topeka, Kansas 66612

Dear Senator Barnett:

SUBJECT: Fiscal Note for SB 72 by Senate Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning SB 72 is respectfully submitted to your committee.

SB 72 would make technical changes to current statutes regarding the Board of Mortuary Arts. The bill would clarify the definition of a funeral director, as well as actions that can be taken by the Board against licensees or applicants for licensure.

Passage of SB 72 would have no fiscal effect.

Sincerely,

A handwritten signature in cursive script that reads "Duane A. Goossen".

Duane A. Goossen
 Director of the Budget

cc: Mack Smith, Mortuary Arts

Senate Public Health and Welfare
 Attachment #2
 Committee
 January 16, 2007



*The Kansas State
Board of Mortuary Arts*

Created August 1, 1907

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Topeka, Kansas 66603-3733
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E-Mail: boma1@ksbma.kansas.gov
Web Site: <http://www.kansas.gov/ksbma/>

MEMBERS OF THE BOARD

Mr. Barry W. Bedene, Licensee, President
Mr. Fred G. Holroyd, Licensee, Vice President
Mr. Charles R. Smith, Consumer
Ms. Melissa A. Wangemann, Consumer
Mr. Bill Young, Licensee

ADMINISTRATIVE STAFF

Mr. Mack Smith, Executive Secretary
Mr. Francis F. Mills, Inspector
Ms. Mary J. Kirkham, Administrative Specialist

Tuesday, January 16, 2007

Senate Public Health and Welfare Committee
Room 231-N, State Capitol
Topeka, Kansas

Chairman Barnett, Committee Members and Staff:

Thank you for the opportunity to appear before you today and ask for your support of Senate Bill 72. My name is Mack Smith, and I'm the executive secretary of the Kansas State Board of Mortuary Arts (KSBMA.)

As you know, Senate Bill 72 was introduced by this committee at my request. The bill is a result of the annual review of statutes and regulations done by the Mortuary Arts Board and is simply meant to update and better define language and definitions in KSA 65-1713 and KSA 65-1751. The review is done by Mortuary Arts board members and administrative staff—including the assistant attorney generals assigned to the board for representation and litigation purposes.

Section one concerns KSA 65-1713 which involves the definition, responsibility and duties of a Kansas funeral director. Besides the grammatical changes, the wording of "burial and disposal" has been changed to "disposition." Language involving "meeting with families for the purpose of making at-need funeral arrangements" has been added and "funeral establishment, branch funeral establishment or crematory" has been added replacing "place for the preparation or the disposition or the care of dead human bodies."

Section two concerns KSA 65-1751 which is the statute that allows the board to take action against licensees or applicants for licensure. Besides the grammatical changes, sub (3) has added the language "or any other crime which reflects on the licensee's fitness to practice." Sub (20) has added "including the federal trade commission's funeral rule." Sub (22) has added "liable for or" along with "by a court of

Page 1 of 2

senate Public Health and Welfare
Attachment # 3 Committee
January 16, 2007

competent jurisdiction"

Again, I thank the committee for the opportunity to testify today, and I ask for your support of Senate Bill 72. I'll do my best to answer any questions you may have.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mack Smith". The signature is fluid and cursive, with the first name "Mack" being more prominent than the last name "Smith".

Mack Smith, Executive Secretary
Kansas State Board of Mortuary Arts

MS

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Kansas Legislative Session disk



Kathleen Sebelius, Governor
Duane A. Goossen, Director

<http://budget.ks.gov>

January 16, 2007

The Honorable Jim Barnett, Chairperson
Senate Committee on Public Health and Welfare
Statehouse, Room 120-S
Topeka, Kansas 66612

Dear Senator Barnett:

SUBJECT: Fiscal Note for SB 62 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 62 is respectfully submitted to your committee.

Under current law, licensed medical practitioners, registered nurse practitioners, and physician assistants must indicate the purpose for which any amphetamine or sympathomimetic amine drug, designated in Schedule II, III, or IV of the Uniform Controlled Substance Act, is being given on the prescription order in the practitioner's own handwriting. SB 62 would remove the requirement that the diagnosis be written in the practitioner's own handwriting, thereby allowing a practitioner to utilize electronic means of prescribing these medications.

The Kansas State Board of Pharmacy and the Kansas Board of Healing Arts indicate that the passage of SB 62 would have no fiscal effect on their operations.

Sincerely,

Duane A. Goossen
Director of the Budget

cc: Debra Billingsley, Pharmacy
Cathy Brown, Healing Arts

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e-mail: duane.goossen@budget.ks.gov

Senate Public Health and Welfare
Committee
Attachment #4
January 16, 2007

VICKI SCHMIDT
SENATOR, 20TH DISTRICT
(785) 296-7374

STATE OF KANSAS



SENATE CHAMBER

COMMITTEE ASSIGNMENTS
CHAIRMAN: JT. COMMITTEE ON ADMINISTRATIVE
RULES AND REGULATIONS
VICE-CHAIR: PUBLIC HEALTH AND WELFARE
MEMBER: CAPITOL AREA PLAZA AUTHORITY
FINANCIAL INSTITUTIONS AND
INSURANCE
HEALTH CARE STRATEGIES
JT. COMMITTEE ON INFORMATION
TECHNOLOGY
STATE ADVISORY COUNCIL ON AGING
TRANSPORTATION
WAYS AND MEANS

January 16, 2007

TESTIMONY IN SUPPORT OF SB 62

Chairman Barnett and Members of the Committee:

Thank you for the opportunity to testify in support of SB 62. The current law requires that prescribers indicate on the prescription **IN THEIR OWN HANDWRITING** the purpose (or diagnosis) for the amphetamine or sympathomimetic amine prescribed. Kansas is the **ONLY** state that requires this. While this law is under the Board of Healing Arts statutes, it is the pharmacist's responsibility to ensure that the diagnosis is on each and every one of these prescriptions. As a practicing pharmacist, I cannot tell you how many times I have had to have a patient return to the prescriber's office to have the diagnosis added. Additionally, since it must be in the prescriber's own handwriting, it may be days before the patient receives the medication.

Thankfully the profession of medicine and pharmacy are progressing to more electronic communication. This would include both e-prescribing and electronic medical records. The handwritten requirement cannot be accommodated as we move forward with better delivery systems.

The statute restricts the purpose of these drugs and will continue to do so with this proposed legislation. The record keeping will be retained in the medical record of the patient, not on the actual prescription that the pharmacist fills.

This issue is particularly burdensome for the "border communities." Since Missouri, Oklahoma, Colorado and Nebraska do not have this law, their prescribers are sometimes not aware of the requirement. In addition, students at post secondary institutions who arrive from out of state are often without medication for lengthy periods of time while their prescribers are asked to provide a new prescription with the additional information.

BRAND	CHEMICAL
Adderall®	Mixed Salts of Single Entity Amphetamine
Adipex P® lonamin®	Phentermine
Pondimin®	Fenfluramine

Thank you for your consideration of SB 62.

HOME

2619 S.W. RANDOLPH CT.
TOPEKA, KANSAS 66611
(785) 267-4686

STATE OFFICE

STATE CAPITOL, ROOM 142E
TOPEKA, KANSAS 66612-1504
(785) 296-7374

E-MAIL: SCHMIDTV@SENATE.STATE.KS.US

Senate Public Health and Welfare Committee
Attachment # 5
January 16, 2007

KANSAS BOARD OF HEALING ARTS

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR



KATHLEEN SEBELIUS
GOVERNOR

MEMO

TO: Senate Public Health and Welfare Committee

FROM: Lawrence T. Buening, Jr. *L.T.B.*
Executive Director

DATE: January 16, 2007

RE: S. B. No. 62

Thank you for the opportunity to provide information to the Committee on behalf of the Kansas State Board of Healing Arts in support of S.B. No. 62. In August, Senator Schmidt contacted the Board in office and advised that she was interested in amending K.S.A. 65-2837a to delete the requirements that prescriptions for amphetamines and sympathiomemetic amines be in the physician's own handwriting and contain the purpose for which the drug was being prescribed. The Board reviewed these amendments at its meeting in August and December and expressed its support.

The Board has received letters from a number of physicians expressing concerns about the current statutory language. A letter from Bradley Marples, M.D. is attached and expresses substantial policy reasons for making the amendments proposed in S.B. No. 62 much better than I can.

I would be happy to respond to any question.

MEMBERS OF THE BOARD:

CAROLINA M. SORIA, D.O., PRESIDENT
Goddard

BETTY MCBRIDE, Public Member, VICE-PRESIDENT
Columbus

VINTON K. ARNETT, D.C., Hays
MICHAEL J. BEEZLEY, M.D., Lenexa
RAY N. CONLEY, D.C., Overland Park
GARY L. COUNSELMAN, D.C., Topeka
FRANK K. GALBRAITH, D.P.M., Wichita
MERLE J. "BOO" HODGES, M.D., Salina

SUE ICE, Public Member, Newton
MARK A. McCUNE, M.D., Overland Park
CAROL SADER, Public Member, Prairie Village
ROGER D. WARREN, M.D., Hanover
NANCY J. WELSH, M.D., Topeka
JOHN P. WHITE, D.O., Pittsburg
RONALD N. WHITMER, D.O., Ellsworth

235 S. Topeka Boulevard, Topeka, Kansas 66603-3068
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*Senate Public Health and Welfare
Attachment # 6 Committee
January 16, 2007*

May 31, 2006

It no longer seems logical to require that the purpose for which an amphetamine or sympathomimetic amine in schedule II, III, or IV is prescribed be hand written as set forth in KSA 65-2837a. The Statute states that the purpose for these drugs shall be restricted to narcolepsy, drug-induced brain dysfunction, hyperkinesis, the differential diagnosis of depression, depression unresponsive to other forms of treatment, clinical investigation (with prior approval by the Board), obesity, and any other disorder or disease where the drugs are scientifically found to be safe and effective (with prior approval for each condition by the Board). If I'm not mistaken this Statute dates back to 1984.

In this day and age of electronic prescribing including the diagnosis on a prescription is much better done on the computer itself rather than handwritten on a prescription after it is printed out of the computer. If the diagnosis is entered in the computer, on the prescription, there is a permanent record made in the electronic medical record. If it is handwritten on a printed prescription that is sent to a Pharmacy there is no record kept in the usual fashion without copying and scanning the final product into a secondary scanning software. This is an expensive and complicated burden.

The inclusion of a specific diagnosis on each prescription where it is required is not difficult in our EMR. One simply chooses the diagnosis from the patient's own Problem List for which the prescription is being written. The ICD-9 code is then embedded directly on the prescription and will remain there on any subsequent renewals of that prescription and can be seen in the medical record at any time. This has the added benefits of being perfectly legible, and in the event that the electronic prescription need to be printed, the ICD-9 code affords a degree of privacy to the diagnosis that spelling out the name of the diagnosis would not. This seems to be much more in keeping with the general privacy requirements.

In the near future all prescriptions may very likely be required to be fully electronic for very good reasons. Changing the Statute that requires a diagnosis be handwritten on any prescription would be a step in the right direction.

Bradley Wm Marples, MD
Clinical Informatics
Stormont-Vail HealthCare



BOARD OF PHARMACY
DEBRA L. BILLINGSLEY, EXECUTIVE DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

Testimony re: SB 62
Senate Public Health and Welfare Committee
Presented by Debra L. Billingsley
January 16, 2007

Mr. Chairman, Members of the Committee:

My name is Debra Billingsley, and I am the Executive Director of the Kansas State Board of Pharmacy. The major purpose and focus of the Board of Pharmacy is to protect the public health, safety and welfare of the citizens of the State of Kansas through the licensure and regulation process. The Board also promotes the education and understanding of pharmacy related services.

SB 62 amends a Board of Healing Arts statute that requires physicians and mid-level practitioners to document on certain prescriptions the patient's diagnosis. The current law states that the diagnosis must be in the practitioner's own handwriting. The amendment will permit the diagnosis to be written by others or electronically written.

The Board of Pharmacy supports the amendment because of convenience to the patient. The change poses no health or safety risk. Currently, if the practitioner fails to write the diagnosis on the prescription, in his or her own handwriting, the pharmacy is forced to send the prescription back to the practitioner. This is inconvenient for the patient particularly those who may live in a different community than their practitioner. The Board of Pharmacy receives calls on a daily basis from pharmacies and from patients because the practitioner has left the diagnosis off of the prescription and it cannot be filled. The current form of the statute prevents a pharmacist from calling the practitioner to find out the diagnosis and then documenting the diagnosis and the phone call. It also prevents the practitioner from using any form of electronic technology because the diagnosis has to be in the practitioner's own handwriting. We are in an age when we are promoting electronic prescribing as a means of preventing medication errors. The requirement that the diagnosis be in the physician's own handwriting is unwarranted and unnecessary. It causes a hardship on the patient and the pharmacy when the practitioner forgets to document the diagnosis. The Board supports the continued documentation of the diagnosis on certain prescriptions but we would respectfully request that the statute be amended so that the diagnosis does not have to be in the practitioner's own handwriting.

Debra Billingsley
Executive Secretary

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Senate Public Health and Welfare
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Regulatory laws should be written in a manner that clearly serves as notice to the professional how the law governs their daily activities. This law is not clear and does not provide guidance to the profession. Therefore, the Board would support the change to this statute.

Thank you very much for permitting me to testify. I would be happy to stand for any questions that you might have.

Respectfully submitted:

Debra Billingsley
Executive Secretary

Debra Billingsley
Executive Secretary

HEIN LAW FIRM, CHARTERED

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Ronald R. Hein

Attorney-at-Law

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Testimony re: SB 62 and SB 63
Senate Public Health and Welfare Committee
Presented by Julie J. Hein
on behalf of
Kansas Pharmacy Coalition
January 16, 2007

Mr. Chairman, Members of the Committee:

My name is Julie Hein, and I am lobbyist for the Kansas Pharmacy Coalition (KPC). The Kansas Pharmacy Coalition is an ad hoc coalition comprised of the Kansas Pharmacists Association and the Kansas Association of Chain Drug Stores.

SB 62 eliminates the need for a physician to hand write the diagnosis code on prescription before the prescription can be filled. It is difficult to obtain a hand written diagnosis for certain medications from a physician. If pharmacists fill a prescription without that information they would be in violation of the law and susceptible to action by the Board of Pharmacy. This bill will leave it up to the professional pharmacist's discretion as to whether that information is needed or not. This will help make the delivery of certain medications easier and less cumbersome for patients and pharmacists alike.

SB 63 simply clarifies that all prescriptions need to be renewed at least on an annual basis. This is already the standard of care in pharmacy practice.

KPC supports both bills and urges this committee to approve them both.

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

Senate Public Health and Welfare
Attachment #8
Committee

January 16, 2007

Kansas Association of



Osteopathic Medicine

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Statement To The
Senate Public Health and Welfare Committee
Supporting Senate Bill 62
January 16, 2007
By Charles L. Wheelen

The Kansas Association of Osteopathic Medicine supports SB62 because it would remove a barrier to implementation of electronic medical records. The provision in K.S.A. 65-2837a requiring that an explanation be in the prescriber's "own handwriting" is archaic and should be deleted from the law.

Medical practices throughout the State of Kansas are installing software applications that allow the physician and his or her staff to improve the efficiency and transportability of patient information. The use of electronic medical records and development of health information technology may also improve patient safety by reducing the likelihood of errors.

The Committee may wish to consider repealing K.S.A. 65-2837a entirely. It appears that this section of the Healing Arts Act was enacted at a time when amphetamines were sometimes prescribed for treatment of obesity. During the ensuing two decades there have been new pharmaceutical products and surgical procedures developed that would be considered more appropriate for the treatment of obesity. In other words, the standard of care has evolved.

Existing provisions of the Healing Arts Act make it unacceptable for a physician to prescribe a controlled substance for other than a legitimate medical purpose [subsection (p) of K.S.A. 65-2836]. Other provisions of the Act require that adequate medical records be maintained by the treating physician [item (25) of subsection (b) of K.S.A. 65-2837]. Furthermore, one of the Board of Healing Arts regulations imposes elaborate minimum requirements for patient records as follows:

K.A.R. 100-24-1. Adequacy; minimal requirements . (a) Each licensee of the board shall maintain an adequate record for each patient for whom the licensee performs a professional service.

(b) Each patient record shall meet these requirements:

- (1) Be legible;
- (2) contain only those terms and abbreviations that are or should be comprehensible to similar licensees;
- (3) contain adequate identification of the patient;
- (4) indicate the dates any professional service was provided;
- (5) contain pertinent and significant information concerning the patient's condition;
- (6) reflect what examinations, vital signs, and tests were obtained, performed, or ordered and the findings and results of each;

(continued on page two)

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- (7) indicate the initial diagnosis and the patient's initial reason for seeking the licensee's services;
 - (8) indicate the medications prescribed, dispensed, or administered and the quantity and strength of each;
 - (9) reflect the treatment performed or recommended;
 - (10) document the patient's progress during the course of treatment provided by the licensee; and
 - (11) include all patient records received from other health care providers, if those records formed the basis for a treatment decision by the licensee.
- (c) Each entry shall be authenticated by the person making the entry unless the entire patient record is maintained in the licensee's own handwriting.
- (d) Each patient record shall include any writing intended to be a final record, but shall not require the maintenance of rough drafts, notes, other writings, or recordings once this information is converted to final form. The final form shall accurately reflect the care and services rendered to the patient.
- (e) For purposes of implementing the healing arts act and this regulation, an electronic patient record shall be deemed a written patient record if the electronic record is authenticated by the licensee. (Authorized by K.S.A. 65-2865; implementing K.S.A. 1997 Supp. 65-2837, as amended by L. 1998, ch. 142, S 19 and L. 1998, ch. 170, S 2; effective, T-87-42, Dec. 19, 1986; effective May 1, 1987; amended June 20, 1994; amended Nov. 13, 1998.)

Thank you for the opportunity to comment. We respectfully request that you recommend SB62 for passage.



Kathleen Sebelius, Governor
Duane A. Goossen, Director

<http://budget.ks.gov>

January 16, 2007

The Honorable Jim Barnett, Chairperson
Senate Committee on Public Health and Welfare
Statehouse, Room 120-S
Topeka, Kansas 66612

Dear Senator Barnett:

SUBJECT: Fiscal Note for SB 63 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 63 is respectfully submitted to your committee.

Under current law, a prescription cannot be refilled after the expiration date indicated in the prescription or one year after the prescription was originally issued, whichever occurs first. However, an exception states that a prescription may be refilled after the one-year period if, in the opinion of the prescriber, continued renewal of the prescription does not present a medical risk to the patient. SB 63 would eliminate this exception, thereby prohibiting the refill of a prescription after the expiration of the one-year period following the original issuance of the prescription.

The Board of Pharmacy indicates that the passage of SB 63 would have no fiscal effect.

Sincerely,

A handwritten signature in dark ink that reads "Duane A. Goossen". The signature is written in a cursive style with a large initial "D".

Duane A. Goossen
Director of the Budget

cc: Debra Billingsley, Pharmacy

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Senate Public Health and Welfare
Committee
Attachment # 10
January 16, 2007

VICKI SCHMIDT
SENATOR, 20TH DISTRICT
(785) 296-7374

STATE OF KANSAS



SENATE CHAMBER

COMMITTEE ASSIGNMENTS
CHAIRMAN: JT. COMMITTEE ON ADMINISTRATIVE
RULES AND REGULATIONS
VICE-CHAIR: PUBLIC HEALTH AND WELFARE
MEMBER: CAPITOL AREA PLAZA AUTHORITY
FINANCIAL INSTITUTIONS AND
INSURANCE
HEALTH CARE STRATEGIES
JT. COMMITTEE ON INFORMATION
TECHNOLOGY
STATE ADVISORY COUNCIL ON AGING
TRANSPORTATION
WAYS AND MEANS

January 16, 2007

TESTIMONY IN SUPPORT OF SB 63

Chairman Barnett and Members of the Committee:

Thank you for the opportunity to testify in support of SB 63. This bill is a very simple one that places into statutes what currently occurs in the everyday practice of pharmacy. Often prescribers will indicate that a prescription may be refilled *p.r.n.* This is a Latin term, "pro re nata", which is an abbreviation for "when necessary." To a practicing pharmacist, the term *p.r.n.* means the prescription may be refilled for a period of time of one year from the date the prescription was issued. The current law allows for the refill after the one year period of time with some further clarification. The prescriber does not indicate on the prescription that it may be refilled "forever." The pharmacist will contact the prescriber after the one year date for the refill authorization. This would be the current standard of care model. Certainly the prescriber can renew the prescription without seeing or contacting the patient. The purpose of this change is to at least require contact between the pharmacist and prescriber once a year on a *p.r.n.* refill. Currently third party payors require this.

Thank you for your consideration of SB 63. I am happy to answer any questions or concerns that you may have.

HOME

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Senate Public Health and Welfare Committee
Attachment #1
January 16, 2007