

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Brenda Landwehr at 1:30 p.m. on March 17, 2009, in Room 784 of the Docking State Office Building.

All members were present.

Committee staff present:

Norm Furse, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Reed Holwegner, Kansas Legislative Research Department
Janet Grace, Committee Assistant

Conferees appearing before the Committee:

Representative Furtado, (Attachment 1)
William Lyons, Kansas Department of Health and Environment (Attachment 2)

Others attending:

See attached list.

Continued hearing on **SB 25 - State-wide prohibition on smoking in indoor public areas.**

Representative Furtado testified as an advocate for **SB 25**. She believes in restricting not banning smoking to promote public safety. (Attachment 1) She discussed the studies with ventilation systems inability to filter out the smoke particles to the non-smoking areas.

The Chair closed the hearing on **SB 25**.

Hearing on **SB 147 - Department of health and environment; HIV screening for pregnant women and newborn children; rules and regulations.**

William Lyons representing Kansas Department of Health and Environment, testified in support of **SB147**. (Attachment 2) Mr. Lyons believes this bill protects and prevents newborns from becoming HIV-positive. This bill also seeks to test any newborn infant if the mother's status is unknown or if the mother declines testing. Averting one infant from becoming HIV-positive would at a minimum save \$250,000 in a lifetime of savings. There are about eighty-nine percent of the women in Kansas currently being tested and it is covered by their insurance.

The Chair closed the hearing on **SB 147**.

Action on **SB 33 - Board of pharmacy; fingerprinting and criminal history record checks; authority of pharmacists and regulating pharmacy technicians; term and membership of the board.** Revisor Norm Furse, reviewed the amendments with the committee.

Representative Neighbor moved to adopt the amendment in as presented by the Revisor. (Attachment 3)
Representative Morrison seconded the motion. The motion carried.

Representative Neighbor moved to report the bill favorably as amended. Representative Hermanson seconded the motion. The motion carried.

Action on **HB 2275 - Establishing a program for random drug screening of public assistance applicants and recipients.**

Revisor Norm Furse, reviewed the changes in the bill. The Committee discussed programs, cash assistance, caregivers, collection of samples, etc., with Secretary Jordan and Representative Kelley, both of whom were in attendance, to answer any questions the Committee had about this bill.

Representative Mast moved the amendment. (Attachment 4) Representative Siegfried seconded the motion.
The motion carried.

CONTINUATION SHEET

Minutes of the House Health and Human Services Committee at 1:30 p.m. on March 17, 2009, in Room 784 of the Docking State Office Building.

Representative Mast moved to pass the bill out favorably as amended. Representative Schwab seconded the motion. The committee discussed the bill including budgetary issues.

Representative Mast made a substitute motion to change the enactment date to July 1, 2010, subject to appropriations. The amended motion was seconded by Representative Morrison. The motion carried.

Representative Finney moved to have a review of **HB 2275** in 2011. Representative Ward seconded the motion. The motion carried.

Representative Ward moved to table the bill due to the economy. Representative Flaherty seconded the motion. Division vote called; 8 in favor, 10 opposed. The motion failed.

Representative Schwab moved to pass **HB 2275** out favorably as amended. Representative Mast seconded the motion. The motion carried. Representatives Flaherty, Finney Quigley, Furtado and Neighbor voted no.

The next meeting is scheduled for March 18, 2009.

The meeting was adjourned at 3:10 p.m.

HOUSE HEALTH & HUMAN SERVICES COMMITTEE

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NAME	REPRESENTING
Bob Harvey	HARP
Candace Ayars	KDHE
BRENDA E. WALKER	KDHE
L. William Lyons	KDHE
Bill Sneed	LIKHA
Don Jordan	SRS
Anne Spiess	American Cancer Society
Tracy Russell	American Cancer Society
Chad Austin	KHA
M. K. Kellum	TFKC
DARIN DERNOVICH	KHP
Kathryn Utgen	KGC
Tom Bell	KHA
Michelle Butler	Cap. Strategies
Don Morin	KS Medical Society
Shirley West	AAAS
Patrick Vogelberg	Kearney and Associates
Dustin Moyer	KHPA
Joan Schulte	KCSL

Please use black ink

Subject: Smoking Restriction

Madam Chairman, Members of the Health and Human Services

My name is Dolores Furtado. When I was a County Commissioner, I led the movement in Johnson County to realize smoke-free environs inside places where people enter or work. In the process I was helped by constituents in defining how we would attain our goal. To restrict smoking, not ban smoking, in the name of promoting public health. It is analogous to speed limits, that is, restricting the speed in the name of public safety.

So, I hope you will join me in describing what it is that we are doing: restricting smoking inside public places.

Thank you

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DEPARTMENT OF HEALTH
AND ENVIRONMENT

*Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary*

www.kdheks.gov

Testimony on SB 147

**Presented to
House Health and Human Services Committee**

**By
L. William Lyons, Director
HIV/AIDS Program
Bureau of Disease Control and Prevention**

March 17, 2009

Chairwoman Landwehr, and members of the committee, my name is L. William Lyons and I am the Director of the HIV/AIDS Program, Bureau of Disease Control and Prevention for the Department of Health and Environment. Thank you for the opportunity to present testimony in support of Senate Bill 147, which is a bill to protect and prevent newborns from becoming HIV positive. This bill seeks to test all pregnant women in Kansas by including a HIV screening during the prenatal/obstetric panel. This bill also seeks to test any newborn infant if the mothers status is unknown or if the mother declines testing.

'ONE TEST, TWO LIVES' Prenatal HIV screening benefits mom and baby™ is the Centers for Disease Control and Prevention's campaign for the national movement towards a standard of care to reduce perinatal transmission. Perinatal transmission accounts for 91% of all AIDS cases among children in the United States. Perinatal HIV transmission rates are 2% or less when antiretroviral therapy is initiated and adhered to during pregnancy. The figure is 25% for women who receive no preventive treatment. When antiretroviral therapy is begun during labor and delivery, the rate of transmission is approximately 10%. Perinatal transmission of HIV can be significantly reduced if a mother's HIV status or her newborn's status is known. CDC data has shown that 31% of mothers of HIV-infected infants had not been tested for HIV until after delivery. Prenatal clinics in states that have an opt out model for screening pregnant women have seen a significant increase in the percentage of pregnant women screened, an estimated 88% to 98% compliance rate. Studies show that the opt-out approach included in the routine battery of prenatal tests can:

- increase testing rates among pregnant women thereby, increasing the number of pregnant women who know their HIV status

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- Increase the number of HIV-infected women who are offered treatment
- Reduce HIV transmission to their babies
- Preserves the voluntary nature of HIV testing (women may voluntarily decline testing)

In the state of Kansas it is estimated that 4,400 pregnant women are not screened for HIV. With passage of SB 147 the majority of the pregnant women in Kansas will be screened, consequently they will know their status. Creating this law in Kansas will do the following:

- The state of Kansas will be in line with the Standard of Care recommended by the Center for Disease Control and Prevention and the United States Public Health Service
- Become a leader in investing in prevention, therefore avoiding costly treatment at a later date
- Prepare pregnant women with timely diagnosis so that they can make informed decisions for their health and the newborns well being
- Secure eligibility for additional federal funds (Early Diagnosis Grant presently \$30,000,000 million)

Currently many national and local agencies and advocates support opt out testing. These medical and advocacy agencies recognize the importance of preventative health and the economic benefits. It only costs an average of \$17.00 for a six week course of Zidovudine to treat an infant. Averting 1 infant becoming HIV positive would at a minimum save \$250,000 in a life time savings. These agencies and advocates have made an educated decision to fully support opt out perinatal testing. The following agencies and advocates supports opt out perinatal testing:

- Donna E. Sweet, MD, AAHIVS, MACP, expert HIV clinician Wichita, Kansas
- American Academy of HIV Medicine
- American Academy of Pediatrics (Kansas Chapter)
- United States Public Health Service
- Centers for Disease Control and Prevention
- The American College of Obstetricians and Gynecologists
- American College of Physicians
- U.S. Preventive Services Task Force
- Institute of Medicine National Research Council
- American College of Nurse Midwives

In conclusion I'd like to relay a personal story of a woman I knew who was touched by this disease. Ana was a faithful spouse who was blessed to have a set of twin boys. The children were unfortunately sickly and the doctors could not determine why they were sick. One day a doctor decided to test the boys for HIV and the test turned out positive. The twins were treated for their disease. Later on in their childhood one twin died, followed by his brother the next year. What an unimaginable situation for a parent to be in. It is such a tragedy to have to bury your children one year after another and also deal with your own HIV disease. If Ana had been screened while she was pregnant the twins may still be living today. We believe that passing SB 147 would prevent cases such as Ana's from occurring in the state of Kansas.

I urge you to pass out SB 147 favorably. Thank you for the opportunity to appear before the committee today. I will now stand for questions.

C

AMENDMENTS SUGGESTED IN HHS COMMITTEE TO SB 33
(deletions are in brackets with strike type and additions are in bold face and underlined)

As Amended by Senate Committee of the Whole

SENATE BILL NO. 33

By Committee on Public Health and Welfare

AN ACT concerning [~~the licensure of~~] certain health care professionals; [~~relating to~~] fingerprinting and criminal history record checks **by the emergency medical services board and the state board of pharmacy; pharmacy technicians; terms and membership of the state board of pharmacy;** amending K.S.A. 74-1603 and 74-1604 and K.S.A. 2008 Supp. 65-1663 and repealing the existing sections.

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

New Section 1. (a) The emergency medical services board may require an original applicant for [~~licensure~~] **a certificate** to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal history in this state or other jurisdictions. The board is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The board may use the information obtained from fingerprinting and the applicant's criminal history for purposes of verifying the identification of any applicant and in the official determination of character and fitness of the applicant for any [~~licensure~~] **certificate** to practice emergency medical services in this state.

(b) Local and state law enforcement officers and agencies shall assist the emergency medical services board in taking and processing of fingerprints of applicants to practice emergency medical services in this state and shall release all records of adult convictions and nonconvictions and adult convictions or adjudications of another state or country to the emergency medical services board.

(c) The board shall fix a fee for fingerprinting of applicants [~~or licenses, or both,~~] as may be

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required by the board in an amount [~~necessary to reimburse the board for~~] **equal to** the cost of the fingerprinting. All such fees shall be credited in full to the criminal background and fingerprinting fund.

(d) There is hereby created in the state treasury the criminal background and fingerprinting fund. All money credited to the fund shall be used to pay the Kansas bureau of investigation for the processing of fingerprints and criminal history background checks for the [~~board of~~] emergency medical services **board**. The fund shall be administered by the [~~board of~~] emergency medical services **board**. The board [~~of emergency medical services~~] shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the criminal background and fingerprinting fund. All expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the board or a person designated by the board under K.S.A. 65-6103, and amendments thereto.

New Sec. 2. (a) As part of an original application for or reinstatement of any license, registration, permit or certificate or in connection with any investigation of any holder of a license, registration, permit or certificate, the state board of pharmacy may require a person to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdiction. The state board of pharmacy is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The state board of pharmacy may use the information obtained from

fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license, registration, permit or certificate.

(b) Local and state law enforcement officers and agencies shall assist the state board of pharmacy in taking and processing of fingerprints of applicants for and holders of any license, registration, permit or certificate and shall release all records of adult convictions and nonconvictions and adult convictions or adjudications of another state or country to the state board of pharmacy.

(c) The state board of pharmacy may fix and collect a fee as may be required by the board in an amount [~~necessary to reimburse the board for~~] equal to the cost of fingerprinting and the criminal history record check. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the pharmacy fee fund. The board of pharmacy shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the pharmacy fee fund.

(d) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 3. K.S.A. 2008 Supp. 65-1663 is hereby amended to read as follows: 65-1663. (a) It shall be unlawful for any person to function as a pharmacy technician in this state unless such person is registered with the board as a pharmacy technician. Every person registered as a pharmacy technician shall pass an examination approved by the board within 30 days of becoming registered. The board shall adopt rules and regulations establishing the criteria for the required examination and a passing score.

(b) All applications for registration shall be made on a form to be prescribed and furnished by the board. Each application for registration shall be accompanied by a registration fee fixed by the board by rule and regulation of not to exceed \$50 [~~\$100~~] \$50.

(c) The board shall take into consideration any felony conviction of an applicant, but such conviction shall not automatically operate as a bar to registration.

(d) Each pharmacy technician registration issued by the board shall expire on October 31 of the year specified by the board. Each applicant for renewal of a pharmacy technician registration shall be made on a form prescribed and furnished by the board and shall be accompanied by a renewal fee fixed by the board by rule and regulation of not to exceed \$25. Except as otherwise provided in this subsection, the application for registration renewal, when accompanied by the renewal fee and received by the executive secretary of the board on or before the date of expiration of the registration, shall have the effect of temporarily renewing the applicant's registration until actual issuance or denial of the renewal registration. If at the time of filing a proceeding is pending before the board which may result in the suspension, probation, revocation or denial of the applicant's registration, the board may by emergency order declare that the application for renewal shall not have the effect of temporarily renewing such applicant's registration. If the renewal fee is not paid by December 1 of the renewal year, the registration is void.

(e) (1) The board may limit, suspend or revoke a registration or deny an application for issuance or renewal of any registration as a pharmacy technician on any ground, which would authorize the board to take action against the license of a pharmacist under K.S.A. 65-1627, and amendments thereto.

(2) The board may require a physical or mental examination, or both, of a person applying

for or registered as a pharmacy technician.

(3) The board may temporarily suspend or temporarily limit the registration of any pharmacy technician in accordance with the emergency adjudicative proceedings under the Kansas administrative procedure act if the board determines that there is cause to believe that grounds exist for disciplinary action under this section against the registrant and that the registrant's continuation of pharmacy technician functions would constitute an imminent danger to the public health and safety.

(4) Proceedings under this section shall be subject to the Kansas administrative procedure act.

(f) Every registered pharmacy technician, within 30 days of obtaining new employment, shall furnish the board's executive secretary notice of the name and address of the new employer.

(g) Each pharmacy shall at all times maintain a list of the names of pharmacy technicians employed by the pharmacy ~~and shall post in a conspicuous location in the prescription area of the pharmacy the names of the pharmacy technicians currently on duty at the pharmacy, if any.~~ A pharmacy technician shall work under the direct supervision and control of a pharmacist. It shall be the responsibility of the supervising pharmacist to determine that the pharmacy technician is in compliance with the applicable rules and regulations of the board, and the supervising pharmacist shall be responsible for the acts and omissions of the pharmacy technician in the performance of the pharmacy technician's duties. The ratio of pharmacy technicians to pharmacists in the prescription area of a pharmacy shall be prescribed by the board by rule and regulation. ~~On and after July 1, 2006,~~ Any change in the ratio of pharmacy technicians to pharmacists in the prescription area of the pharmacy must be adopted by a vote of no less than ~~five~~ six members of the board.

(h) A person holding a pharmacy technician registration shall display such registration in that part of the place of business in which such person is engaged in pharmacy technician activities.

(h) (i) The board shall adopt such rules and regulations as are necessary to ensure that pharmacy technicians are adequately trained as to the nature and scope of their lawful duties.

(h) (j) The board may adopt rules and regulations as may be necessary to carry out the purposes and enforce the provisions of this act.

(h) (k) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 4. K.S.A. 74-1603 is hereby amended to read as follows: 74-1603. (a) There is hereby created a state board of pharmacy which shall consist of ~~six~~ seven members, ~~five~~ six of whom shall be licensed pharmacists, and one of whom shall be a representative of the general public.

(b) Vacancies occurring on the board other than by expiration of term shall be filled for the unexpired term in the same manner as the original appointment was made. No person who has been appointed to and qualified for two terms ~~of three years~~ as a member of the board of pharmacy shall be eligible to be appointed as a member of the board. On July 1, 2009, the term of office of each existing board member shall be extended by one year.

(c) The office of the state board of pharmacy shall be located in the city of Topeka, Kansas.

Sec. 5. K.S.A. 74-1604 is hereby amended to read as follows: 74-1604. The governor shall appoint the members of the board and such members **appointed on and after July 1, 2009,** shall serve for terms of ~~three~~ four years and until their successors are appointed and qualified.

No pharmacist shall be eligible for appointment as a member of the board unless such pharmacist has been a resident of the state and actively employed in or engaged in the practice of

pharmacy in Kansas for at least five years immediately preceding the date of appointment.

Sec. 6. K.S.A. 74-1603 and 74-1604 and K.S.A. 2008 Supp. 65-1663 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

(changes shown in brackets with strike type and in boldface)

HOUSE BILL NO. 2275

By Representative Kelley

AN ACT establishing a program of [random] drug screening for [public] **cash** assistance [applicants and] recipients; amending K.S.A. 2008 Supp. 39-709 and 60-4117 and repealing the existing sections.

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

Section 1. K.S.A. 2008 Supp. 39-709 is hereby amended to read as follows: 39-709. (a) *General eligibility requirements for assistance for which federal moneys are expended.* Subject to the additional requirements below, assistance in accordance with plans under which federal moneys are expended may be granted to any needy person who:

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife are living together, the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary, in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or minor stepchild if the stepchild is living with such individual. The secretary in determining need of an individual may provide such income and resource exemptions as may be permitted by federal law. For purposes of eligibility for aid for families with dependent children, for food stamp assistance and for any other assistance provided through the department of social and rehabilitation services under which federal moneys are expended, the secretary of social and rehabilitation services shall consider

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TEXT SKIPS TO SUBSECTION (L) OF 39-709 FROM PAGE 1:

(l) (1) Applicants for ~~[public assistance]~~ **cash assistance** as a condition of eligibility for ~~[any form of public]~~ **cash** assistance and persons receiving ~~[public]~~ **cash** assistance as a condition of continued receipt of **cash** assistance shall agree to participate in a program of ~~[random]~~ drug screening. The program of ~~[random]~~ drug screening for ~~[public]~~ **cash** assistance recipients shall be established, subject to applicable federal law ~~[and medicaid participation requirements]~~, by the ~~[Kansas health policy authority]~~ **secretary of social and rehabilitation services** on or before January 1, 2010. **Such program shall provide for random drug screening of approximately 1/3 of cash assistance recipients each year.** A ~~[public]~~ **cash** assistance recipient who tests positive for use of an illegal substance shall undergo a drug evaluation and if indicated by the evaluation be required to complete an educational or treatment program recommended as a result of the evaluation.

(2) Subject to applicable federal laws, any ~~[welfare]~~ **cash assistance** recipient who fails to complete the educational or treatment program shall be terminated from ~~[public]~~ **cash** assistance. After completion of such educational or treatment program, the ~~[public]~~ **cash** assistance recipient shall be subject to periodic drug screening. Upon a second positive test for use of an illegal substance, the ~~[public]~~ **cash** assistance recipient, subject to applicable federal law, if any, shall be terminated from ~~[public]~~ **cash** assistance.

(3) Except for hearings before the ~~[Kansas health policy authority]~~ **department of social and rehabilitation services** or criminal prosecutions, the results of any test administered as part of the drug screening program authorized by this section shall be confidential and shall not be disclosed publicly.

(4) The [Kansas health policy authority] secretary of social and rehabilitation services may adopt such rules and regulations as necessary to carry out the provisions of this section. The costs of the drug screening, evaluation and treatment under this program shall be paid from moneys derived from asset seizure and forfeiture under K.S.A. 60-4117, and amendments thereto, and any federal moneys which may be available for such purpose.

(5) **The secretary of social and rehabilitation services shall report on or before January 31, 2011, and annually thereafter on or before January 31 to the chairperson of the house committee on appropriations, the chairperson of the house committee on health and human services, the chairperson of the senate committee on ways and means and the chairperson of the senate committee on public health and welfare concerning the operation and administration of the drug screening program established under this subsection.**

(6) **As used in this subsection, "cash assistance" means cash assistance provided to individuals under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and acts amendatory thereof or supplemental thereto, and under K.S.A. 2008 Supp. 38-147, and amendments thereto, and any rules and regulations adopted pursuant to such statutes.**

DELETE SECTION 2 FROM THE BILL AND AMEND THE REPEALER AND TITLE ACCORDINGLY.