

## MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman Jim Barnett at 1:30 p.m. on February 5, 2009, in Room 136-N of the Capitol.

All members were present.

## Committee staff present:

Nobuko Folmsbee, Office of the Revisor of Statutes  
Doug Taylor, Office of the Revisor of Statutes  
Kelly Navinsky-Wenzl, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Jan Lunn, Committee Assistant

## Conferees appearing before the committee:

Robert Stiles, Primary Care Director, Kansas Department of Health and Environment  
Debra L. Billingsley, Executive Director, Kansas State Board of Pharmacy  
Mike Larkin, Executive Director, Kansas Pharmacists Association

## Others attending:

See attached list.

Nobuko Folmsbee, revisor of statutes office, briefed committee members on **SB 16** and **SB 33**.

**SB 16** is a bill that amends existing law to clarify that the donation, acceptance, transfer, distribution or dispensing of any drug in compliance with the provisions of the Cancer Drug Repository Program and the Utilization of Unused Medications Act do not violate the Kansas State Pharmacy Act.

**SB 33** is a bill that allows the State Board of Pharmacy to require a person to be fingerprinted and to submit to a state and national criminal history record check as part of an original or reinstatement of any license, registration, permit or certificate. The bill's purpose is to verify identification and to determine qualification of individuals to practice under the Kansas State Board of Pharmacy. The bill allows the State Board of Pharmacy to fix and collect fees for the reimbursement of fingerprinting and criminal history record checks. The bill amends current statute by increasing the number of individuals serving on the Board of Pharmacy and their terms. In addition, it requires pharmacy technicians to display a registration card in that part of the place of business in which they engage in pharmacy technician activities.

Senator Barnett opened discussion on **SB 31 - Behavioral sciences; continuing education requirements** which was discussed on February 4, 2009. Senator Kelsey moved to pass out SB 31 to the full Senate; Senator Kelly seconded the motion. The motion carried.

Chairman Barnett opened the hearing on **SB 16 - Pharmacy act; violations; exemptions for donation and distribution of drugs under certain circumstances**, by recognizing Robert Stiles, primary care director of the Kansas Department of Health and Environment (Attachment 1). Mr. Stiles indicated KDHE holds responsibility for the unused medication program, and he indicated his support for the proposed legislation. He reported that forms are prepared, donating entities are ready to begin, and it is anticipated that in the next several weeks, hepatitis C drugs will be available for distribution. He indicated the program shows potential to assist indigent and needy Kansans. There were no opponents to **SB 16**. Upon a motion by Senator Schmidt to move out SB 16 favorably and a second by Senator Haley, the motion passed unanimously.

**SB 33 - Board of pharmacy; fingerprinting and criminal history record checks; authority of pharmacists and regulating pharmacy technicians; term and membership of the board.**

Chairman Barnett introduced Debra Billingsley, executive director of the Kansas State Board of Pharmacy. Ms. Billingsley discussed the four parts of the bill with committee members (Attachment 2). She indicated that it is quickly becoming a standard to require fingerprinting and criminal background checks for many allied health professionals. Ms. Billingsley reported such language is included in the

## CONTINUATION SHEET

Minutes of the Senate Public Health And Welfare Committee at 1:30 p.m. on February 5, 2009, in Room 136-N of the Capitol.

Board of Nursing and the Board of Healing Arts statutes. In addition, many hospitals, long-term care facilities, and other areas are adopting similar practices. She discussed the fees for these activities. Ms. Billingsley indicated the amendment related to the display of pharmacy technicians' registration cards will simplify inspectors' processes. In addition, the increase in pharmacy board members will facilitate meetings, and term increases will allow board members the opportunity to actively participate at the national level.

Senators discussed the ratio of pharmacy technicians to registered pharmacists, training/education for pharmacy technicians, and whether the fee structure currently contained in **SB 33** was sufficient.

Chairman Barnett recognized Mike Larkin, executive director for the Kansas Pharmacist Association, who indicated his support of the provisions contained in **SB 33** (Attachment 3).

Senator Pilcher-Cook asked how many industries or areas require fingerprinting. Chairman Barnett indicated fingerprinting and criminal background checks are required of physicians, nurses, chiropractors, EMS technicians, physician assistants, and many other allied health professionals.

Senator Barnett indicated written testimony in favor of **SB 33** was received from Ron Hein, Kansas Pharmacy Coalition (Attachment 4), and Chad Austin, Kansas Hospital Association (Attachment 5).

Senator Schmidt moved to amend SB 33 on page 2 line 12 by deleting \$50 and inserting \$100 in its place and to pass out SB 33 favorably. Senator Kelsey seconded the motion which passed unanimously.

Senator Barnett adjourned the meeting at 2:06 p.m. The next meeting is scheduled for Monday, February 9, 2009.





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

DEPARTMENT OF HEALTH  
AND ENVIRONMENT

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Division of Health

**Testimony on Senate Bill 16**  
**Presented to**  
**Senate Committee on Public Health and Welfare**  
**By**  
**Robert Stiles, Primary Care Director**  
**Kansas Department of Health and Environment**  
**February 5, 2009**

Chairman Barnett and members of the committee, I am Robert Stiles, the Primary Care Director in the Kansas Department of Health and Environment. I am here today in support of Senate Bill 16. This bill will resolve a potential conflict between the Pharmacy Act (65-1636) and statutes implementing the Cancer Drug Repository and Unused Medications Programs. It clarifies that the activities of these programs as outlined in statute shall not constitute a violation of the Pharmacy Act's provisions on the sale and distribution of drugs. KDHE supports the removal of this barrier to the implementation and functioning of these programs.

KDHE has responsibility for maintaining records of participation in the Unused Medications Program and has worked closely with the State Board of Pharmacy in its implementation of the program. KDHE recently awarded funding for a pilot clearinghouse project for the distribution of donated pharmaceuticals to eligible clinics.

The Unused Medications and Cancer Drug Repository Programs show great potential to provide a means for poor and uninsured Kansans to receive needed pharmaceuticals. We appreciate the Joint Committee on Administrative Rules and Regulations' notice of this potential conflict, and this committee's attention to the matter. Thank you for the opportunity to appear before the committee today. I will now stand for questions.

# KANSAS

KANSAS BOARD OF PHARMACY  
DEBRA BILLINGSLEY, EXECUTIVE DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

**Testimony concerning SB 33  
Senate Public Health and Welfare  
Presented by Debra Billingsley  
On behalf of  
The Kansas State Board of Pharmacy  
February 5, 2009**

Chairman Barnett, Members of the Committee:

My name is Debra Billingsley, and I am the Executive Secretary for the Kansas State Board of Pharmacy. Our Board is created by statute and is comprised of six members, each of whom is appointed by the Governor. Of the six, five are licensed pharmacists and one is a member of the general public. They are charged with protecting the health, safety and welfare of the citizens of Kansas and to educate and promote an understanding of pharmacy practices in Kansas.

Senate Bill 33 has several components. First, it would permit the Board of Pharmacy to require any new or reinstated license, registration, permit or certificate applicant to submit to a criminal history record. It would also permit the Board to request criminal history records as part of any investigation of a license, registration, permit or certificate holder. The language in the bill is identical to the language that was passed previously related to the Board of Healing Arts, Nursing Board and the EMS Board. Many other states already require this information for pharmacists, interns, pharmacy students, and pharmacy technicians. This will enhance the Board's ability to carry out their mission by providing additional safeguards to protect the public.

The health care services delivery chain faces a range of risk and compliance needs. Hospitals, clinics and pharmacies rely on the Board of Pharmacy, to help ensure individuals licensed, registered or certified by our agency are fit to practice in a pharmacy and pose no threat to the public. In 2006, healthcare was the largest industry in the country, creating 14 million jobs, 13.6 million jobs for wage and salary workers and 438,000 self-employed positions. Of the 20 fastest growing occupations, seven are in the healthcare industry, according to the United States Department of Labor Bureau of Labor Statistics. The rationale for performing background checks on health care workers is that many patients are vulnerable and dependent on supportive care services. The Board of Pharmacy cannot totally rely on the veracity and truthfulness of an applicant in providing background information to the Board. A professional background check would provide additional protection to the citizens of Kansas.

An individual undergoing a criminal history record and fingerprint check would be responsible for its cost, which would be paid to the Board of Pharmacy. The Board would then reimburse the Kansas Bureau of Investigation, which would be responsible for reimbursing the Federal Bureau of Investigation for any fees associated with the checks.

Public Health and Welfare

Date:

Attachment:

The second component of SB 33 requires a pharmacy to display the pharmacy technicians' registration cards, provided by the Board in Pharmacy, in the prescription area of the pharmacy. The purpose of this change is to help pharmacy inspectors determine whether each pharmacy technician is currently registered with the Board. This also replaces the requirement that a pharmacy post daily, on a job board, the names of the pharmacy technicians that are on duty each day because the current posting does not serve a useful purpose.

Finally, SB 33 would add an additional member to the Board of Pharmacy and extend Board member terms from three years to four years. Currently, Board of Pharmacy members are appointed by the Governor for a term of 3 years. The individual may be reappointed for an additional 3 year term. The Board has requested four-year terms in order to provide greater continuity on complex issues that often take longer than three years to address, and to help facilitate greater Kansas involvement in the National Boards of Pharmacy. Forty-three states have longer term limits than Kansas. As a result of those states members' longevity, they dominate participation in the National Boards of Pharmacy initiatives; and Kansas and the Midwest are under-represented. Kansas has an active board and their effectiveness would be enhanced if they are better able to play an active role in representing our state and region at the national level.

The Board of Pharmacy currently has six members. The Board requests that this number be increased to seven as a practical matter to prevent tie votes on issues. The additional member should be a practicing pharmacist in the state, to allow for representation of the many types of pharmacy practice.

The Board of Pharmacy endorses this legislation as an effective means to assist the Board in performing its functions. The Board appreciates your support of Senate Bill 33.

Thank you very much for permitting me to testify. I am happy to yield to questions.



Testimony on Senate Bill 33  
Senate Public Health and Welfare Committee  
Kansas Pharmacists Association  
Presented by Mike Larkin, Executive Director  
February 5, 2009

Mr. Chairman and Members of the Committee:

Thank you for allowing me to testify today in support of Senate Bill 33. My name is Mike Larkin, and I am the Executive Director of the Kansas Pharmacists Association.

The Kansas Pharmacists Association supports the provisions of SB 33 as it is currently written. We feel the provision to authorize fingerprinting of this bill will enhance the ability of the Kansas Board of Pharmacy to better control the character of pharmacists that practice in Kansas.

The provision of this bill requiring a pharmacy technician registration be displayed in the place of business where the technician actually performs his or her duties will allow both pharmacy inspectors and the general public to see the qualifications of the pharmacy technicians employed by the pharmacy.

Finally, the Kansas Pharmacists Association supports the increase in the number of members sitting on the Kansas Board of Pharmacy to 7 members and the extension off membership on the Board from three to four year terms. This change would allow the Board to better utilize the talents and expertise of its members and to also allow them to serve on national level pharmacy boards.

The Kansas Pharmacists Association encourages this committee to approve SB 33 and recommend to the full Senate that it be passed. Thank you very much for permitting me to testify today. I will be happy to yield to questions.

**HEIN LAW FIRM, CHARTERED**

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**Written Testimony re: SB 33  
Senate Public Health and Welfare Committee  
Presented by Ronald R. Hein  
on behalf of  
Kansas Pharmacy Coalition  
(February 5, 2009)**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel 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.

The KPC supports the provisions of SB 33.

Specifically, the KPC supports the increase in the size of the Board of Pharmacy to 7 members and the change to four year terms. These changes are necessary to deal not only with tie votes, but to conform this board to most fee boards, and to benefit efforts for Kansas Board of Pharmacy members to serve on National Boards.

The KPC also has reviewed the fingerprinting requirements, and the pharmacy technician notice posting requirements, and finds both of these provisions of the bill to be acceptable to our associations and our members.

Therefore, we urge this committee to approve SB 33 with the recommendation that it be passed.

Thank you very much for permitting me to submit this written testimony, and I will be happy to yield to questions.

Public Health and Welfare

Date:

Attachment:

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Thomas L. Bell  
President

TO: Senate Public Health and Welfare Committee

FROM: Chad Austin  
Vice President, Government Relations

RE: Senate Bill 33

DATE: February 5, 2009

The Kansas Hospital Association appreciates the opportunity to speak in favor of Senate Bill 33 which would allow the Kansas State Board of Pharmacy to require individuals seeking a new license or reinstatement to be fingerprinted and submit to both state and national criminal history record checks. This information would then be made available to the Kansas State Board of Pharmacy for use in verifying the identification of the applicant and in determining the suitability of the applicant for licensure.

KHA supports this legislation as it assists Kansas hospitals by requiring both a state *and* federal criminal background check for all applicants seeking to practice in Kansas. In this transient society in which we live, obtaining both state and federal criminal background information will provide a complete history of the individual for the Board to use when making licensing decisions.

Screening potentially dangerous and unfit applicants for licensure before they become employed greatly assists Kansas health care facilities in providing a safer environment for patients, co-workers and the community. Applicants could easily meet these new requirements by going to their local or state law enforcement agency to have their fingerprints taken.

Thank you for your consideration of this bill.