

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on February 22, 2000 in Room 423-S of the Capitol.

All members were present except:

Committee staff present:       Emalene Correll, Kansas Legislative Research Department  
  Norman Furse, Revisor of Statute's Office  
  June Evans, Secretary

Conferees appearing before the committee:   Representative Joann Freeborn  
  Debbie Jones, Liberal  
  Dr. Gail Hanson, public health veterinarian, KDHE  
  Sarah Holbert, CEO, CARES, Inc.  
  Pam Rusk, Guide Dog Users of Kansas  
  Michael Byington, Director, Envision Governmental Affairs  
  Representative Gerry Ray  
  Mark deBarnarbo, Institute for Drug Free Work Place,  
  Washington, D.C.  
  Brian Heatwole, e-Screen  
  Dr. Roger Carlson, Director of H&E Laboratories  
  Leon Moeder, The Infinity Group, Inc., Wichita  
  Bill Combs, Via Christi  
  Mike Helbert, Kansas Trial Lawyers Association

Others Attending: See Attached Sheet

The Chairperson announced there was much to be done today and asked that testimony be paraphrased rather than read in its entirety. Hand signals will be given to give an idea of just how much time each of you have before getting the gavel.

The Chairperson stated final action would be taken on **HB 2814 - Establishing a Senior Pharmacy Assistance Program.**

Representative Mayans reviewed some amendments to **HB 2814**. The Governor said some interest from the senior trust fund could be used for this purpose, we talked to people of SRS, Department of Aging, Governor's Office, and Representative Glasscock and discussed how much money would be available. When bill originally introduced went over how much money it would take and how much money available and tried to work them backwards and since have X amount of dollars, how can we make this program work with that amount of money the first year. As we all know, the most difficult year under this dome is passing the legislation. Once we have the legislation on the books, it is much easier to go back and refine in the 2<sup>nd</sup> and 3<sup>rd</sup> year and if need more money, can make adjustments. I recognize, too, the minority party has a bill in this area and have some excellent ideas and wanted to incorporate some of their ideas in this because can not pass this legislation without their help and they also care very much about seniors and they are very much involved with us in these concerns so want to incorporate some of their ideas. One of the changes is moving the administration to the Department of Aging. After talking to the AAAs, they were really enthused about this program and they do work with the SCHICK program and programs similar to this so that is where it should be. Most of the 16 states that have a similar program does use the Department of Aging. I thought about the Department of Aging originally but there is a new Secretary there and didn't want to burden her with that responsibility. The Department of Aging has many advantages. They certainly can do a lot of outreach for the seniors. To make things work, really agonized over this but had to move the age to 67 rather than 65 until the year 2003. Most states have age 65 and up. One state has 65 and up and 25 and up on disabilities, but most states have 65 and up, so we will be a little unusual in that matter, but only for 2 years. That will make the fiscal note work. We kept the \$14,000 per individual which was a real dog fight. There were different ideas on that amount of money but the ones

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supportive of the bill did not want to see that number get down below \$14,000 and \$16,000 per household. Eligible individuals must not qualify for any other local, state or federal prescription drug program. We don't want anyone that has insurance or other assistance to be able to qualify for this, that is not the intent. Most of the states have a deductible and a co-payment. I originally simplified things to have just the co-pay and it came to my attention to make it work, and the minority party had that in their bill, and that is something that is workable so there is a 30% co-pay with each prescription. That is a good idea because someone could pay \$12.00 for a year's supply. On page 2 wanted to specify that comes from the senior services trust fund. In Section 2 described the need for the Secretary of Aging's authorization by Rules and Regs to implement this and also implement the restrictive drug formulary. That would be a way to protect the program from escalating costs in its initial stages.

Representative Light asked what the senior services trust fund was and Representative Mayans replied this will be part of the interest accumulated from the \$100M trust fund, not taking any money from the principal, but from the interest of that \$100M.

Representative Light asked what the fiscal note would be and Representative Mayans stated money would be available from the interest, but not sure how much it would cost. We can fund it.

Staff asked if it would be considered to require the Secretary of Aging to contract with the Secretary of SRS to handle the fiscal part of this because SRS already has contracts with pharmacists and the billing and payment system is set up with SRS?

Representative Mayans said certainly – Section 2. (a) would take care of that.

Representative Wells stated the last line should be turned around to read, “the program must not be less than 65 years of age.”

Representative Henry said he hoped the Committee adopted this amendment and move along, but as working through this, and when talking to the Governor, the announcement was that close to \$60M or \$70M a year would be going into this trust fund and last week at the hearing thought the age 65 could be accomplished with about \$4M to \$5M, and hope you work with us and skim a little off the principal and get this thing to 65 as soon as possible and accelerate that by using a bit of the principal and this could be up to \$200M in two or three years and think could go with what you stated last week and get this thing moving for people 65 and older.

Representative Mayans stated he thought there would be more monies available.

Representative Henry moved and Representative Long seconded to adopt the balloon on **HB 2814**. The motion carried.

Representative Mayans said an additional amendment was needed on page 1, lines 34 thru 36 strike, “the cost reimbursement to the pharmacy shall be the average wholesale price, minus 10%, or the usual and customary cost, whichever is lower.”

Representative Geringer moved and Representative Long seconded to strike “the cost reimbursement to the pharmacy shall be the average wholesale price, minus 10%, or the usual and customary cost, whichever is lower.” The motion carried.

Representative Henry moved and Representative Bethell seconded to add “Must be” on the first line before “67” and on the last line remove “ not less than 65 years of age” and replace with “be 65 years of age or over.” The motion carried.

Representative Long moved and Representative Bethell seconded to move **HB 2814** out as amended. The motion carried.

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The Chairperson said the Committee would turn to **HB 2755 - Prohibitions and restrictions on disclosure of certain information by the department of health and environment.**

Representative Storm moved and Representative Bethell seconded to remove **HB 2755** from the Table. The motion carried.

Staff explained the balloon to **HB 2755.**

Representative Storm moved and Representative Wells seconded to accept the balloon to **HB 2755.** The motion carried. (See Attachment #1).

Representative Storm moved and Representative Showalter seconded to move **HB 2755** out as amended. The motion carried.

The Chairperson opened the hearing on **HB 2924- Public access for service animals.**

Representative Joann Freeborn, testified in support of **HB 2924** as it is important to those whom it affects. The number of persons directly affected by allowing such assistance therapy dogs is not large. A change in statute is needed for these persons who need public access for their trained dogs. It expands the law to include those who are mentally or emotionally disabled or who are suffering a hidden disability.

Representative Freeborn presented a balloon amendment that strikes the word “animal” and brings it back to “dog” only. This bill also directs the Secretary of Health and Environment to adopt rules and regulations necessary to implement the access provisions among which include a tag or permit showing the animal is actually trained for the purpose of providing service to those needing assistance. Such persons must have a medically proven need (See Attachments #2 & 3).

Debbie Jones, a proponent to **HB 2924** stated she was involved in an accident and has had panic attacks since. Ms. Jones has a therapy dog which underwent personal training and provides emotional support (See Attachment #4).

Sara Holbert, CEO, CARES, Inc., testified as a proponent to **HB 2924**, stating CARES has been placing assistance dogs since 1994. A total of 145 assistance dogs in 19 different states have been placed (See Attachment #5).

Dr. Gail Hansen, public health veterinarian for Kansas, stated the Kansas Department of Health and Environment recommends amending **HB 2924** to require current rabies vaccination and rabies tag for all service animals for which there is a licensed rabies vaccine (See Attachment #6).

Pam Rusk, Guide Dog Users of Kansas, was in opposition of **HB 2924**, stating her guide dog was very important to her life and living independently, but knows at the same time how hard we have both had to work and certifications and processes we have had to go through. These rights are not to be taken lightly, it is hard work maintaining a guide or assistance dog allowing the kind of public access we have. People in Kansas have worked for approximately 65 years to get and improve guide dog access laws. If laws were thrown open to cover dogs with less training and dogs that have frequently misbehaved in public or injured others, or caused frequent property damage, we that have worked so hard for dog access rights will lose those rights along with the new folks that have caused the problem.

Michael Byington, Director, Envision Governmental Affairs Office, testified as an opponent to **HB 2924**, stated they did not train guide dogs, but do assessments for any or all of the guide dog training schools with regard to the qualifications and readiness of blind prospective guide dog users in Kansas. They also provide follow-up orientation and mobility training for blind people and their new guide dogs who have just recently been paired and returned to their home towns and neighborhoods from one of the guide dog training facilities. From these standpoints, we know what it takes to have an appropriately trained, controlled, and handled assistance dog who has, by virtue of the training process, earned the right to utilize the high degree of public access afforded by K.S.A. 39-1101 et seq. It is suggested that the issue of

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assistance dog and animal credentialing and certification in Kansas be referred for interim study. In this context, time and research can be focused to arriving at more certain and workable solutions to an increasing problem in definitional law (See Attachment #7).

The Chairperson closed the hearing on **HB 2924** and asked what the Committee's wishes were.

Representative Merrick moved and Representative Flaharty seconded to accept balloon presented by Representative Freeborn. The motion failed.

Representative Storm stated it was the amendment that she had trouble with.

Representative Geringer moved and Representative Light seconded a Substitute Motion to recommend placing **HB 2924** in a summer interim study. The motion carried.

The Chairperson opened the hearing on **HB 2758 - On-site drug tests exempted from requirement of being an approved library.**

Representative Gerry Ray testified in support of **HB 2758**, stating this bill allows preliminary drug testing with some new products that are being developed. It is totally preliminary. If anything comes up positive it then goes on to a laboratory. The changes on the second page of the balloon provides that the rules and regulations that are set by the state will not exceed the requirements of the federal guidelines and the other one that is being removed is on lines 12 and 13 because that was rather vague and wanted to identify what an adverse action was going to be (See Attachment #8).

Mark A. deBernardo, Executive Director, Institute for a drug-free workplace, Washington, D.C., a proponent to **HB 2758**, stated the single most important point is that the American employer community wants and needs the option of on-site drug testing. On-site drug testing is a common (and getting more and more common), effective, appropriate, and necessary tool in addressing - and preventing - employee substance abuse, and thereby substantially contributes to the protection of employees, the public at large, and the environment from the risks posed by impaired workers in safety-sensitive positions (See Attachment #9).

Brian Heatwole, eScreen, Inc., a proponent to **HB 2758**, stated eScreen serves Wal Mart, Target, Sears and Sprint. The purpose of eScreen system is a clinic based computer-operated forensic drug screening system. The purpose is to find negative urine drug screen results during the point-of-collection, and to report results immediately to the employer. The system ensures accuracy, security, confidentiality and ease of operation for the clinic, at the same time delivering negative results in minutes as opposed to days (See Attachment #10).

Roger Carlson, Kansas Department of Health and Environment testified as an opponent to **HB 2758**, stating Kansas does not have state laboratory licensure laws to ensure the quality of the millions of clinical tests performed on materials from the human body in hospitals, clinics, and physician office laboratories. The bill under consideration would remove urine drug tests from the current regulatory requirements and permit the use of drug screening tests performed without laboratory proficiency monitoring, the use of controls at or near the assay cutoff, or analyst personnel requirements (See Attachment #11).

Leon Moeder, President of The Infinity Group Labs, Inc., testified in opposition to **HB 2758**, stating toxicology and drug testing are extremely complex fields and the interpretation of testing results in this area should not be left to the under trained. The certification process should be designed to ensure that testing procedures are properly carried out, and that mistakes are kept to a minimum. Allowing non-certified operators to run drug screens will dramatically increase the number of mistakes. Unfortunately, nobody will hear about most of those mistakes, since there is no certifying agency to oversee the process (See Attachment #12).

Bill Combs, Technical Manager, Via Christi Regional Labs, Wichita, testified as an opponent to **HB 2758**, stating laboratories who perform employment related drug of abuse testing are required to be certified by

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KDHE. Certified Laboratories are required to employ, for employment related drug testing, only technicians with a college degree in a laboratory related science. How can you now allow employers with no lab experience to perform testing? (See Attachment #13)

Michael Helbert, appearing on behalf of the Kansas Trial Lawyers Association, testified in opposition to **HB 2758** stating the strength of our nation lies with the individual and that each person's dignity, freedom, ability and responsibility must be honored. This bill would allow virtually on demand tests by any employer at any time for any reason or no reason at all on an employee. The potential for abuse is immense and obvious. In an age where matters of individual privacy are of utmost concern to our citizens, such a blanket authorization to conduct such unrestricted intrusions on our personal freedom should not be condoned. The present statute, as it exists, provides safeguards. This would remove those safeguards (See Attachment #14).

The Chairman said time had expired and would not have time to work the bill and closed the hearing on **HB 2758**.

Representative Storm moved and Representative Lightner seconded approval of the minutes of February 10, 16 and 17. The motion carried.

The following written testimony was distributed: Suzanne Shugart (Attachment #15), Susan Grace, PT (Attachment #16), Ann Byington, Education Chair, Kansas Association for the Blind and Visually Impaired, Inc. (Attachment #17), Brad & Kristy Shrader (Attachment #18), William F. Acree, Exec. Director/Pres. (Attachment #19), Greg Capps, Toxicology Marketing Director (Attachment #20), Jo Ann Pottorff (Attachment #21), Lawrence T. Buening, Jr. (Attachment #22) Mark S. Synovec (Attachment #23), Brad Smoot, Legislative Counsel for Hoffmann-LaRoche, Inc., (Attachment #24), Terry Leatherman, Kansas Chamber of Commerce and Industry, (Attachment #25).

The meeting adjourned at 3:15 p.m. and the next meeting will be March 2.