

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE.

The meeting was called to order by Chairperson Senator Susan Wagle at 1:30 p.m. on March 20, 2002 in Room 231-N of the Capitol.

All members were present except: Ms. Emalene Correll, Kansas Legislative Research Department

Committee staff present: Mr. Norm Furse, Revisor of Statutes
Ms. Lisa Montgomery, Revisor of Statutes
Ms. Margaret Cianciarulo, Administrative Assistant

Conferees appearing before the committee: Mr. Garry Robbins, Executive Director,
KS Optometric Association
Dr. Mike Malone, Optometrist
Dr. Chuck Kissling, Optometrist
Dr. Ron Fingel, Optometrist
Dr. Mike Feifarek, Optometrist
Ms. Amy Campbell, Executive Director,
KS State Ophthalmological Society

Others attending: See attached guest list.

Reconsider intentions of bills

Chairperson Wagle opened the meeting by referring to the bills worked yesterday, March 19, 2002. In the matter of **HB2665**, an act concerning emergency medical services; relating to certification, the Committee found a one-word technical problem. In the matter of **HB2718**, an act concerning vital statistics records, including certificates of birth, death, adoption, marriage, and divorce, and the manner in which the Department of Health and Environment makes records it maintains available to eligible applicants, a problem was found with the criminal section. A motion was made by Senator Praeger and seconded by Senator Jordan that the Committee reconsider their intentions to pull back **HB2718** and **HB2665** in Committee. The motion passed.

Hearing on HB2285 - an act concerning optometry; relating to contact lens

The Chair then announced she would begin the hearing on **HB2285** by calling on Mr. Norm Furse, Revisor of Statutes, to give an overview of the bill. Highlights of his presentation included:

- Sec.1 states that the act be known as patients contact lens prescription release act;
- Sec.2 amendatory section, the subsections addressing unlawful acts;
- Sec.3 provides purposes;
- Sec.4 deals with meeting criteria and payment of registration fee;
 - Subsection (h) covers writing warning notification to patients;
- Sec.5 covers revoking registrations or licenses

The Chair thanked Mr. Furse and proceeded to call on the first proponent, Mr. Gary Robbins, Executive Director of the Kansas Optometric Association who stated that this legislation makes it clear that patients have a right to their contact lens prescription. He gave a brief history of the bill, introduced in 1999, and proposed a balloon, attached to his testimony, to clarify that "an ophthalmic lens shall include a contact lens with or without power". A copy of his testimony and proposed balloon are (Attached 1) attached hereto and incorporated into the Minutes by reference.

The second proponent was Dr. Mike Malone, a practicing optometrist in Topeka who shared the American Optometric Association Contact Lens Section recommendations, cited studies, and spoke on the 1-800 fax verification system and the optometry rules, regulations and requirements, and provided letters from optometrists expressing the difficulties they had experienced with 1-800-CONTACTS. A copy of his testimony and the optometrists' letters are (Attachment 2) hereto and incorporated into the Minutes by reference.

The third proponent was Dr. Charles Kissling, practicing optometrist in Wichita, who stated that the FDA requires all contact lenses be sold only pursuant to a prescription from an appropriate licensed professional and requires the manufacturer to label every lens so as to signify that it is a prescription item. Also, present Kansas law states "it is unlawful for any person to dispense an ophthalmic lens without first having obtained a prescription and this bill seeks to place retailers under regulatory authority of the State Board of Examiners in Optometry. He also provided examples of retailers selling lenses without a prescription and a "requests and verification" study. A copy of his testimony and his examples and references are (Attachment 3) attached hereto and incorporated into the Minutes by reference.

The fourth proponent was Dr. Ron Fiegel, practicing optometrist in Wichita, who stated: his three goals for contact lens wearing patients, conditions of a healthy eye becoming stressed; his concerns with the bill; and the universally accepted standard of care. A copy of his testimony is (Attachment 4) attached hereto and incorporated into the Minutes by reference.

The fifth proponent was Dr. Mike Feifarek, practicing optometrist in Topeka, gave a brief description of the cornea and then expressed his concerns regarding: care of the patient, risks of lenses, cost to society when the cornea is infected, the issue of cost, and the policy set must be safe for all. No written testimony was provided.

The last proponent to testify was Ms. Amy Campbell, Executive Director, Kansas State Ophthalmological Society, who stated KSOS supports the release of prescriptions to the patient, however, this responsibility does not automatically transfer to a third party. And also, they request an amendment, specifically referring the regulation of ophthalmologists back to the Board of Healing Arts. A copy of her testimony is (Attachment 5) attached hereto and incorporated into the Minutes by reference.

The two written testimonies were presented, one from the Kansas Medical Society and the other from Kansas State Ophthalmological Society. A copy of these written testimonies is (Attachment 6) attached hereto and incorporated into the Minutes by reference.

The Chair then asked for questions or comments from the Committee. Questions were asked by Senators Haley, Praeger, Wagle, and Barnett ranging from where did this concept come from, is there similar in Missouri, were the conferees aware of the other two statutes Mr. Furse referred to, what if staff division in a small hospital, statute does not permit but does not permit, to what is the law on patients receiving advance notice.

As there was no further discussions, comments, or questions, the Chair adjourned the meeting.

Adjournment

Adjournment time was at 2:35 p.m.

The next meeting is scheduled for March 21, 2002.

CONTINUATION SHEET