

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 January 25 in Room 210 Memorial Hall

All members were present except:     Rep. Willa DeCastro, Excused  
  Rep. Brenda Landwehr, Excused  
  Rep. Dale Swenson, Excused

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

Conferees appearing before the committee:     Susan Linn, Executive Director, Board of Pharmacy  
  Camille Nohe, Attorney General's Office  
  Matt All, Insurance Commissioner's Office

Others attending:            See Attached Sheet

The Chairperson announced "Questions a Legislature Should Ask" was distributed to the sub-committee on licensing.

The Chairperson stated he believed all the members received letters about attending a dinner co-sponsored by the House and Senate Insurance Committees, Heath and Human Services and Senate Health and Public Welfare Committees. It was announced the other day that we would not be a part of sponsoring those dinners. As far as the committee is concerned that is still true, as individual members, you however, if you choose to go may do so. It is just that the committee is not a sponsor or approving of that. The cost would be recorded.

The Chairperson asked if there were any bill introductions and stated they would be grouped for introduction.

Representative Showalter conceptually introduced a Board of Cosmetology bill.

Mary Blubaugh MSN, RN, requested bill introduction that would amend several statutes in the Nursing Act.

The Chairperson stated the bill would be introduced without objection.

Susan Linn, Executive Secretary, Board of Pharmacy, briefed the committee on confidentiality. Ms. Linn stated Dr. Curry, Wichita, was concerned patients were going to other physicians and having multiple prescriptions filled by different pharmacies then selling them on the street. Dr. Curry thought the solution to this problem would be to require all pharmacists be linked via computer and asked the Board of Pharmacy to put something like this in place. This would enable all pharmacists to have patient information available before filling a prescription.

There would be many potential problems with this, one would be how to get all pharmacies on one computer system that communicated and how and who would maintain it. A greater problem would be confidentiality and security. The Board of Pharmacy does take breeches of confidentiality very seriously (Attachments 1 & 2).

Camille Nohe, Assistant Attorney General, Legal Opinions and governmental Counsel Division, briefed the committee regarding confidential and privileged communications.

Confidentiality refers to statutes, unprofessional conduct regulations and/or professional ethics that denote an obligation not to reveal client information unless permitted or mandated by law. A breach of confidentiality may result in disciplinary action by the licensing body and/or a lawsuit by the client. Confidential communications are

## CONTINUATION SHEET

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not, however, necessarily privileged communications.

A privilege refers to a statutorily created right that exempts clients, under most circumstances, from having their confidential communications revealed in a court proceeding without first granting permission to do so.

SB 399 was crafted by the Legislative Mental Health Task Force to create a confidential/privileged communication act for individual licensed mental health professional that would parallel the Confidential Communications and Information Act (applicable to mental health facility clients). While that bill did not move forward last year, the Behavioral Sciences Regulatory Board has established a Committee to carefully review the proposal. Hopefully next year the Board will come forward with a refined proposal that will engender support from interested parties ([Attachment 3](#)).

Matthew D. All, Assistant Commissioner, Kansas Insurance Department, briefed the committee on the privacy of Kansans health information as an insurance regulator, and not a regulator of doctors, hospital, pharmacists or many of the other actors in the health industry. The insurance industry is vital to the issue of health privacy, and this issue occupies our office a great deal. We believe that Kansans should be able to control their health information.

New regulations issued by the federal government will, in time, provide some protection for Kansans' health information under certain circumstances. These regulations were issued by the U.S. Department of Health and Human Services pursuant to a mandate in the health Insurance Portability and Accountability Act of 1996. This Act, commonly known as HIPPA, required Congress to pass comprehensive health privacy standards by August 1999. Because Congress failed to meet that deadline, the job fell to the U.S. Department of Health and Human Services.

The HIPPA regulations were issued in draft form in February 2000, then final form in December. They are highly complex. These regulations are a step forward, but do not take affect until February 2003, and clearly do not apply to all of the various actors in the health and insurance industries who possess health information. Broader and more immediate protection is needed ([Attachment 4](#)).

The meeting adjourned at 2:10 p.m. and the next meeting will be January 29.