

Approved: Jan. 26, 94
Date ph

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chairperson Joann Flower at 1:30 p.m. on January 25, 1994 in Room 423-S of the Capitol.

All members were present except:

Committee staff present:

William Wolff, Legislative Research Department

Sue Hill, Committee Secretary

Conferees appearing before the committee:

Larry Buening, Executive Director, Kansas Board of Healing Arts

Tom Hitchcock, Executive Director, Kansas Board of Pharmacy

Others attending: See attached list

Chair called the meeting to order welcoming all visitors attending.

Chair invited those people with bill requests to begin.

Mr. Larry Buening, Executive Director, Kansas Board of Healing Arts offered hand-out, (Attachment No. 1). He gave a detailed explanation of the bill request, drawing attention to new law, and amended law. The proposed legislation would amend 2 statutes under current physical therapy law. The substantive provisions are, i.e., to delete language that would delete the ability to obtain certification as to physical therapist assistant by obtaining or possessing equivalent qualifications based on training and experience. The Physical Therapy Examining Committee has recommended this to the Board of Healing Arts, he stated, and the Board has authorized the request of this legislation and asks for the introduction of it, based upon the fact that physical therapist assistants are the only profession of the 10 professions regulated by the Board that are able to receive their credentialing without receiving any formal education, but simply by obtaining training and experience. The change will require that there be some training as approved by the Board of Healing Arts. The other substantive change is to add language to the law indicating, it would not be proper for that person who is not certified as a physical therapist assistant to hold themselves out as such. He noted, it has been brought to his attention perhaps this bill would need some kind of a savings clause, (Grandfather clause). If Staff feel this clause would be appropriate, then the Board would agree to that type of clause. He answered questions.

Rep. Swall moved to introduce legislation as proposed by Mr. Buening, seconded by Rep. Freeborn. No discussion. Motion carried.

Chair drew attention to two sets of Committee minutes for January 19, January 20. She urged members to read them carefully, and if there are recommended changes please call Secretary, Sue Hill by 5:00 p.m. by tomorrow, January 26, 1994.

Staff briefing on **HB 2605**.

Dr. Wolff gave a detailed explanation of **HB 2605**. He pointed out new language, and offered clarification. There were questions regarding the severity of penalties for noncompliance. It was suggested by one member that criminal penalties be changed to civil penalties for non-compliance.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 423-S
Statehouse at 1:30 p.m. on January 25, 1994.

HEARING BEGAN ON **HB 2605.**

Tom Hitchcock, Executive Secretary of Kansas Board of Pharmacy offered hand-out (Attachment No.2). He drew attention to three changes proposed in the pharmacy act, i.e., 1) to allow the Board to assess an administrative fine against any licensee or registrant, (other than a retail dealer) not to exceed \$500 per violation; 2) language that places responsibility on the pharmacist and removes it from the Board to prove the pharmacist has been rehabilitated to warrant public trust, following a felony conviction; 3) to allow the Board to sanction a manufacturer or wholesale distributor if they are found in violation of the Pharmacy Act or Controlled Substances Act. He answered numerous questions, i.e., determination of proof of being rehabilitated, composition of members of the Pharmacy Board. He noted fines that are collected would go into the General Fund. He noted also the Board of Nursing has had authority to impose fines since 1992, the Board of Healing Arts has had this same authority since 1986.

HEARING CLOSED ON **HB 2605.**

Staff briefing on **HB 2604.**

Dr. Wolff detailed the bill, drawing attention to changes, and he detailed proposed new law, i.e., changing the word "felony" and adding "any crime" where applicable. He explained the diversion agreement. It was noted by Dr. Wolff the word "office" in the title, (line 9) would need clarification by the Revisor.

HEARING BEGAN ON **HB 2604.**

Tom Hitchcock, Kansas Board of Pharmacy offered hand-out (Attachment No.3). He detailed rationale and pointed out the proposed changes in current law as related to the Pharmacy Act. He stated, the first amendment in Section 1 of **HB 2604** deals with reasons to prohibit issuance of a registration. Two identical references describe a diversion agreement, and he offered rationale. He stated the following information was provided by the Attorney for the Board of Pharmacy, i.e., "A diversion agreement for the purposes of any disciplinary proceeding shall be deemed a conviction of a crime originally charged." The Board asks that this language be placed in the Controlled Substances Act for disciplinary action and for issuance of registration for sanctions. A final proposed change is, making language consistent with Subsection (a), lines 26-27 of **HB 2604**, allowing the Board to be empowered to sanction for the same reason they may refuse issuance of a registration. He answered numerous questions.

Chairperson Flower at this point asked if there were any objections to having the Committee discuss and work **HB 2605**. There were no objections. Chair stated she would entertain a motion if that is the desire of the Committee.

Rep. Wells moved to report **HB 2605** favorably, seconded by Rep. Mayans. No discussion. Motion carried.

Chair requested Rep. Morrison to carry the bill on the floor of the House for debate. He agreed to do so.

Noted: fiscal note on **HB 2605** is recorded as (Attachment No.4).

Noted: fiscal note on **HB 2604** is recorded as (Attachment No.5).

Chair adjourned the meeting at 2:12 p.m.

Next meeting will be January 26, 1994.

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

DATE Jan. 25, 1994

[illegible]

KANSAS STATE BOARD OF HEALING ARTS BILL PROPOSAL

Session of 1994

_____ BILL NO. _____

AN ACT concerning physical therapists and physical therapist assistants; amending K.S.A. 65-2906 and 65-2913 and repealing the existing sections.

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

Section 1. K.S.A. 65-2906 is hereby amended to read as follows: (a) It shall be the duty of the state board of healing arts, with the advice and assistance of the state examining committee to pass upon the qualifications of all applicants for examination and registration or certification, provide for and conduct all examinations, determine the applicants who successfully pass the examination, duly register or certify such persons and adopt rules and regulations for professional conduct of the registered or certified persons.

~~(b) A person who desires to be registered as a physical therapist and who:~~

~~(b) Is of legal age; and~~

~~(2) has graduated from a school of physical therapy approved by the state board of healing arts, may make application on a form furnished by the board for examination for registration as a physical therapist.~~

PH/LL
1-25-94
Attn #1

An applicant applying for registration as a physical therapist or for a certificate as a physical therapist assistant shall file a written application on forms provided by the state board of healing arts, showing to the satisfaction of the board that the applicant meets the following requirements:

(1) The applicant is of legal age;

(2) the applicant has successfully completed the academic requirements of an educational program in physical therapy approved by the board;

(3) the applicant has passed an examination required by the board to test the applicant's knowledge of the basic and clinical sciences relating to physical therapy theory and practice; and

(4) the applicant has paid to be the board all applicable fees established under K.S.A. 65-2911 and amendments thereto.

~~(e) A person who desires to be certified as a physical therapist assistant and who:~~

~~(1) Is at least of legal age;~~

~~(2) has successfully obtained a high school education or its equivalent, as determined by the board; and~~

~~(3) has successfully completed a program in a school for physical therapist assistants approved by the state board of healing arts, or is determined by the state board of healing arts to possess equivalent qualifications based on training and experience, may make application for examination on forms furnished by the board.~~

PJW
1-25-94
Attn #1-2
39274

~~(d)~~(c) The board shall adopt rules and regulations establishing the criteria which a school shall satisfy in order to be approved by the board for purposes of subsections (b) and ~~(e)~~. The board may send a questionnaire developed by the board to any school for which the board does not have sufficient information to determine whether the school meets the requirements of the board for approval and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the school to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about schools. In entering such contracts the authority to approve schools shall remain solely with the board.

Sec. 2. K.S.A. 65-2913 is hereby amended to read as follows:
65-2913. (a) Any person who, in any manner, represents oneself as a physical therapist, or who uses in connection with such person's name the words or letters physical therapist, physiotherapist, registered physical therapist, P.T., Ph. T. or R.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist, without a valid existing certificate of registration as a physical therapist issued to such person ~~pursuant to~~ under the provisions of this act, shall be guilty of a class B misdemeanor.

(b) ~~Any person who successfully meets the requirements of subsection (c) of K.S.A. 65-2906 and amendments thereto shall be~~

P.H.W.
1-25-94
Attn # 1-3
39374

~~known as and designated a physical therapist assistant and may designate or describe oneself as a physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A., or P.T. Asst.~~ Any person who, in any manner, represents oneself as a physical therapist assistant, or who uses in connection with such person's name the words or letters physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist assistant, without a valid existing certificate as a physical therapist assistant issued to such person pursuant to the provisions of this act, shall be guilty of a class B misdemeanor.

(c) Nothing in this act shall prohibit any person not holding oneself out as a physical therapist or physical therapist assistant from carrying out as an independent practitioner, without prescription or supervision, the therapy or practice for which ~~such~~ the person is qualified, and shall not prohibit ~~such~~ the person from using corrective therapy. Nothing in this act shall prohibit any person who assists the physical therapist or physical therapist assistant from being designated as a physical therapy aide.

Sec. 3. K.S.A. 65-2906 and 65-2913 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

PH&CW
1-25-94
Attn # 1-4
Pg 4 of 4

Kansas State Board of Pharmacy

LONDON STATE OFFICE BUILDING
900 JACKSON AVENUE, ROOM 513
TOPEKA, KANSAS 66612-1231
PHONE (913) 296-4056
FAX (913) 296-8420

Sue

STATE OF KANSAS

TOM C. HITCHCOCK
EXECUTIVE SECRETARY/DIRECTOR

DANA W. KILLINGER
BOARD ATTORNEY



JOAN FINNEY
GOVERNOR

HOUSE BILL 2605

HOUSE PUBLIC HEALTH & WELFARE COMMITTEE

JANUARY 25, 1994

MADAM CHAIRPERSON, MEMBERS OF THE COMMITTEE, MY NAME IS TOM HITCHCOCK AND I SERVE AS THE EXECUTIVE SECRETARY FOR THE BOARD OF PHARMACY. I APPEAR BEFORE YOU TODAY ON BEHALF OF THE BOARD IN SUPPORT OF HB 2605.

THE BILL CONSISTS OF THREE (3) CHANGES IN THE PHARMACY ACT. THE FIRST CHANGE APPEARS ON PAGE 1, LINES 13 THROUGH 27, IN THE FORM OF A NEW SECTION. THIS SECTION WILL ALLOW THE BOARD TO ASSESS AN ADMINISTRATIVE FINE AGAINST ANY LICENSEE OR REGISTRANT, OTHER THAN A RETAIL DEALER, IN THE AMOUNT NOT TO EXCEED \$500 FOR EACH VIOLATION OF THE PHARMACY ACT OR CONTROLLED SUBSTANCES ACT. IN COMPARISON, BOTH THE BOARD OF NURSING (IN 1992) AND BOARD OF HEALING ARTS (IN 1986) IN KANSAS HAVE OBTAIN THE AUTHORITY TO IMPOSE CIVIL FINES AS WELL AS 33 OTHER STATES BOARDS OF PHARMACY. AS NOTED ON LINES 26 & 27 THE ENTIRE AMOUNT OF THE FINE WOULD BE DEPOSITED INTO THE GENERAL FUND.

THE SECOND CHANGE IN ALSO ON PAGE 1, LINES 33 THROUGH 35, SPECIFICALLY PLACES THE RESPONSIBILITY ON THE PHARMACIST AND REMOVES IT FROM THE BOARD TO PROVE THE PHARMACIST HAS BEEN REHABILITATED TO WARRANT THE PUBLIC TRUST FOLLOWING A FELONY CONVICTION.

THE THIRD CHANGE IS ON PAGE 3, LINES 19 THROUGH 24, WOULD ALLOW THE BOARD TO SANCTION A MANUFACTURER OR WHOLESALE DISTRIBUTOR IF THEY ARE FOUND TO BE IN VIOLATION OF THE PHARMACY ACT OR CONTROLLED SUBSTANCES ACT.

THE BOARD OF PHARMACY RESPECTFULLY REQUESTS THE FAVORABLE PASSAGE OUT OF COMMITTEE HOUSE BILL 2605.

THANK YOU.

*PH & W
1-25-94
Attn #2*

Kansas State Board of Pharmacy

LONDON STATE OFFICE BUILDING
900 JACKSON AVENUE, ROOM 513
TOPEKA, KANSAS 66612-1231
PHONE (913) 296-4056
FAX (913) 296-8420

STATE OF KANSAS



JOAN FINNEY
GOVERNOR

HOUSE BILL 2604

HOUSE PUBLIC HEALTH & WELFARE COMMITTEE

JANUARY 25, 1994

TOM C. HITCHCOCK
EXECUTIVE SECRETARY/DIRECTOR

DANA W. KILLINGER
BOARD ATTORNEY

MADAM CHAIRPERSON, MEMBERS OF THE COMMITTEE, MY NAME IS TOM HITCHCOCK AND I SERVE AS THE EXECUTIVE SECRETARY FOR THE BOARD OF PHARMACY. I APPEAR BEFORE YOU TODAY ON BEHALF OF THE BOARD IN SUPPORT OF HB 2604.

THIS BILL IS PROPOSED TO AMEND TWO STATUTES UNDER THE CONTROLLED SUBSTANCES ACT WHICH ARE K.S.A. 65-4117 AND 65-4118. THE FIRST AMENDMENT IN SECTION 1 OF THE BILL DEALS WITH REASONS TO PROHIBIT ISSUANCE OF A REGISTRATION WHILE THE SECOND DEALS WITH THE SANCTIONING OF THE REGISTRANT.

TWO OF THE PROPOSED THREE CHANGES ARE IDENTICAL IN CONTENT AND CAN BE FOUND ON PAGE 2, LINES 17 THROUGH 19 AND ON PAGE 3, LINES 3 THROUGH 5. THEY BOTH DESCRIBE THAT A DIVERSION AGREEMENT SHALL BE DEEMED A CONVICTION OF THE CRIME ORIGINALLY CHARGED, FOR EITHER THE ISSUANCE OR SANCTIONING OF A REGISTRANT. UNDER PRESENT LAW, DIVERSION AGREEMENTS ARE NOT CONVICTIONS AND ALTHOUGH DIVERSION AGREEMENTS MAY BE SATISFACTORY FOR THE GENERAL PUBLIC, THE BOARD OF PHARMACY FEELS TO MAINTAIN THE HIGHEST STANDARDS OF PROFESSIONALISM, THEY SHOULD HAVE THE POWER TO DENY LICENSURE OR MAKE SANCTIONS FOR CRIMINAL ACTS, WHETHER THEY RESULT IN CONVICTIONS OR DIVERSION AGREEMENTS.

THE THIRD CHANGE IS ON PAGE 2, LINE 26 THAT MAKES THIS PARAGRAPH CONSISTENT WITH SUBSECTION (a), PARAGRAPH (3) ON PAGE 1, LINES 26 AND 27. IT IS ONLY RATIONAL THAT THE BOARD BE EMPOWERED TO SANCTION FOR THE SAME REASON THEY MAY REFUSE ISSUANCE OF A REGISTRATION.

THE BOARD OF PHARMACY RESPECTFULLY REQUESTS THE FAVORABLE PASSAGE OUT OF COMMITTEE HOUSE BILL 2604.

THANK YOU.

DAW
1-25-94
attm #3

STATE OF KANSAS



DIVISION OF THE BUDGET

Room 152-E

State Capitol Building

Topeka, Kansas 66612-1504

(913) 296-2436

FAX (913) 296-0231

Joan Finney
Governor

Gloria M. Timmer
Director

January 24, 1994

The Honorable Joann Flower, Chairperson
House Committee on Public Health and Welfare
Statehouse, Room 426-S
Topeka, Kansas 66612

Dear Representative Flower:

SUBJECT: Fiscal Note for HB 2605 by House Committee on
Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2605 is respectfully submitted to your committee.

The bill, as introduced, would amend provisions pertaining to the disciplinary measures which can be administered by the Board of Pharmacy on its licensees. The bill would give the Board the authority to impose administrative fines on licensees and registrants. The bill also would exempt permits issued to retail dealers from this provision. In addition, if a licensee is convicted of a felony, the bill would remove the burden of proof from the Board of Pharmacy and place the responsibility on the licensee. Finally, the bill allows the Board the power to sanction manufacturers and wholesale distributors for violations of the Kansas Pharmacy Act and the federal Controlled Substances Act.

The bill would have an indeterminate effect on the Board of Pharmacy in the event additional legal or investigative expenses are incurred as a result of its provisions. The bill would also have an indeterminate impact on revenues to the State General Fund as a result of any fines which may be collected under its provisions.

Sincerely,

A handwritten signature of Gloria M. Timmer in dark ink, written over a horizontal line.

Gloria M. Timmer
Director of the Budget

PNW
1-25-94
Attn #4

cc: Tom Hitchcock, Pharmacy

STATE OF KANSAS



DIVISION OF THE BUDGET

Room 152-E
State Capitol Building
Topeka, Kansas 66612-1504
(913) 296-2436
FAX (913) 296-0231

Joan Finney
Governor

Gloria M. Timmer
Director

January 24, 1994

The Honorable Joann Flower, Chairperson
House Committee on Public Health and Welfare
Statehouse, Room 426-S
Topeka, Kansas 66612

Dear Representative Flower:

SUBJECT: Fiscal Note for HB 2604 by House Committee on
Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note,
concerning HB 2604 is respectfully submitted to your committee.

The bill, as introduced, would amend provisions pertaining to the registration of pharmacies and pharmacists by the Board of Pharmacy. For decisions concerning the revoking or suspension of a license, the bill would enable the Board to classify a diversion agreement as the same as a conviction of the crime with which the licensee was originally charged. The bill would also expand the number of instances in which the Board may revoke or suspend a license by replacing the conviction of a felony in any state with the conviction of any crime in any state.

The bill would have no direct fiscal impact on the operations of the Board of Pharmacy.

Sincerely,

A handwritten signature in cursive script that reads "Gloria M. Timmer".

Gloria M. Timmer
Director of the Budget

cc: Tom Hitchcock, Pharmacy

PHW
1-25-94
Attn #5