

Approved: March 10, 94
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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 March 8, 1994 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department
William Wolff, Legislative Research Department
Norman Furse, Revisor of Statutes
Sue Hill, Committee Secretary

Conferees appearing before the committee:
Tom Hitchcock, Kansas Board of Pharmacy
Joseph Kroll, Department of Health and Environment
Tom Bell, Kansas Hospital Association

Others attending: See attached list

Chairperson Flower called the meetings to order, drawing attention to the agenda, and requested a staff briefing on **SB 715**.

Ms. Correll gave a comprehensive explanation of **SB 715**, and noted an updated supplemental note is needed to reflect the Senate Committee amendment. She highlighted changes in scheduled drugs. She stated this legislation was prepared by the Board of Pharmacy that would update the drug schedules and bringing them into conformance with the Federal Controlled Substances Act, and the Kansas Controlled Substances Act. She detailed all the changes proposed.

HEARINGS BEGAN ON **SB 715**.

Tom Hitchcock, Executive Secretary of Board of Pharmacy offered hand-out (Attachment No.1) and stated support for the **SB 715**. He detailed four changes required in order to bring the state regulations into compliance with the Federal Controlled Substances Act. 1), an exception of a specific drug which now has been found to have a legitimate medical purpose indicated in **SB 715** on page 1, lines 27-28, having been moved from schedule I, and moved into schedule II now found on page 8, lines 18-20. This drug can now be legally prescribed by physicians and dispensed by pharmacists. 2) and 3) are the addition of drugs which appear on page 6, lines 19-21 and also lines 22-25, indicated now with a name, description, and given a 4 digit DEA code number for identification. This schedule I contains drugs that may not be prescribed or dispensed since they have no legitimate medical purpose and are controlled on the state level for legal purposes. 4) an addition on page 14, line 27, the drug Carisoprodol (brand name SOMA). This scheduling is an attempt to slow down fraudulent availability of this highly abuse legal drug. He urged passage for **SB 715**. Mr. Hitchcock then answered questions.

HEARING CLOSED ON **SB 715**.

Chair requested a staff briefing on **SB 716**.

Mr. Furse detailed **SB 716**, stating it would amend a section in the Hospital Licensure Statutes and relates to the confidentiality of licensure information. Current law provides that information received by the licensing agency, i.e., the Secretary of Department of Health and Environment in this case, through reports and inspections, would not be disclosed publicly to individuals or medical care facilities. **SB 716** proposes changes in regard to confidentiality by amending to delete language, i.e., "medical care facility". He explained. The only change in **SB 715** actually, is the deletion in line 17 of, "medical care facilities". Mr. Furse noted, **SB 716** refers to the licensing of a facility.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 423-S
Statehouse, at 1:30 p.m. on March 8, 1994.

Joseph Kroll, Director of Bureau of Adult/Child Care, Department of Health/Environment offered hand-out (Attachment No.2). He stated, the issues involved with **SB 716**, are, the public release of specific data related to services offered by Kansas Medical Care Facilities. The recognition of the need for availability of such data continues to increase. Also, the availability of information available in files from other sources. The protection of information identifying individuals is maintained in the statute. Mr. Kroll detailed the process that the Department of Health/Environment and the Kansas Hospital Association have worked on, in concert, to formulate a program in which data collection would use one form, not two or separate forms. He detailed the program and rationale for requesting **SB 716**. He urged passage.

Mr. Kroll answered numerous questions, i.e., yes, under current statutory authority, the Department could change the collection procedure and ask for different kinds of information that is being requested currently. Mr. Kroll stressed the request for **SB 716** is a joint survey project between the Department and the Kansas Hospital Association, with a good faith effort by both entities. This project would be implemented through a written memorandum of understanding between the Secretary and the Kansas Hospital Association. He detailed the process in how the Department would deal with the mechanics of the project, i.e., mailing, most of the follow-up work.

Tom Bell, Kansas Hospital Association stated support for **SB 716**. (See Attachment No. 3). He stated the Kansas Hospital Association has been working with the Department of Health/Environment on this process with the idea that data collection can be made more efficient for both entities. It is evident that the need for data is vital regarding health care services and planning for future health care needs. **SB 716** would amend current law to allow disclosure of individual medical care facility data collected by the Department of Health/Environment. Passage would allow the Department to collaborate with the Kansas Hospital Association regarding an annual survey instrument for medical care facilities. He urged support.

Mr. Bell answered numerous questions, i.e., risk management law specifically requires certain confidential information stay in the hospital until a time certain; there are statutes related specifically to licensure information data; the Department of Health/Environment and Kansas Hospital Association would work in a collaborative effort to design an "instrument" so there would be one survey form for data collection; both entities would work in a good-faith effort towards the proposed goal. Mr. Bell noted, this entire program is based on trust between these two entities, so, with this good-faith effort the goal could be achieved. It was noted that if a good-faith memorandum of understanding is signed, this would be the mechanism with which both parties would work under. There was discussion regarding the form being designed for the survey data collection might be approved by rules and regulations. Mr. Bell had no problem with this suggestion. There was a suggestion for language, i.e., "acting in good faith" might be used to address concerns by some members that more data might be released than necessary in some instances.

HEARING CLOSED ON **SB 716**.

Chair inquired if there were any objections to holding discussion on bills heard this date. No objections.

At this time Chairperson Flower drew attention to **SB 715**, requesting Mr. Furse to explain technical changes that might need to be brought to the attention of Committee.

Mr. Furse pointed out in **SB 715**, section 3 is the same as current law, therefore, unless Committee has an amendment for Section 3, he would recommend the entire Section 3 be deleted and the reference of same be deleted from the title. This appears in **SB 715**, pages 9-13, and reference is 65-4109.

At this time, Rep. Neufeld moved to amend **SB 715** per the suggestion of Mr. Furse. Motion seconded by Rep. Wagle. No discussion. Vote taken, motion carried.

Rep. Bruns moved to pass **SB 715** out of Committee favorably as amended, seconded by Rep. O'Connor. Motion carried.

Rep. Bruns agreed to carry **SB 715** for debate in the House.

Chair drew attention to **SB 716** and invited Committee discussion to begin.

It was noted a final form for data collection was not available, and it was brought out by the Department of Health/Environment and Kansas Hospital Association, they would think it more appropriate to wait for a final stamp of approval by the legislature before proceeding with plans for a final version of a survey form.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 423-S
Statehouse, at 1:30 p.m. on March 8, 1994.

Rep. Neufeld made a motion to amend SB 716 conceptually by stating, the form for data collection will be formulated in conjunction with the Kansas Hospital Association, the Health Care Data Governing Board, the Department of Health/Environment and be adopted by rules and regulations by the Secretary.

Discussion began regarding the involvement of rules and regulations and the benefits of same in respect to this specific situation. Mr. Furse noted K.S.A. 65-433 relates to inspections and investigations, but he would continue to check to make sure which section is the most appropriate for language proposed in the motion by Rep. Neufeld. Discussion continued.

At this point, Rep. Neufeld moved to amend SB 716, i.e., "an inspection form shall be developed by the Secretary of Health/Environment with input from the Health Care Data Governing Board and the Kansas Hospital Association, and shall be adopted by the Secretary as a rule and regulation. Motion seconded by Rep. O'Connor.

Discussion continued. When asked, it was noted by staff member Dr. Wolff, no, this is not usual, it is unusual, i.e., by definition in the filing act, a form is not a rule and a regulation. It is exempt from the filing act. If the substance of the form is either prescribed in rule and regulation or in the statute. The form itself is not a regulation. What the parties involved are interested in, is what is generated by the form, not the form itself. If a rule and regulation was written out about the substance of the form, that would be more appropriate.

Concerns expressed by some members regarding what kinds of information would be released; concerns that the bill is too broadly written; there should be a safe-guard for the facility with the approval of what information should be released, such approval being made by the Associations involved, and/or the medical care facility. It was noted that with safe-guards in place, the public would be able to obtain access to data which up to this point has been unavailable. Attention was drawn to a specific instance where an epidemic of Legionnaire's disease and reports of same had created a damaging image, causing concerns for hospitals. It was noted that with safe-guards in place, the public would be able to obtain access to data which up to this point has been unavailable.

Dr. Wolff, when asked, gave advice on conceptual language. At this point, Rep. Neufeld and Rep. O'Connor agreed to change their conceptual motion to amend **SB 716** by adding the following language, "the content of the form for the inspection shall be put together by the Health Care Data Governing Board, Kansas Hospital Association, and the Department of Health/Environment and adopted by the Secretary as a rule and regulation."

Chairperson Flower asked if there was any further discussion. There was none. Vote taken, motion carried.

Rep. Wells moved to make a conceptual motion to amend SB 716, that other information would be approved through the rule and regulation process. She explained, i.e., the proposed language in SB 716 would allow agencies to publicly disclose information on medical care facilities, not on individuals, but this is of great concern, and she hopes to see this process under the authority of someone, i.e., rule and regulation, or perhaps to add language "in a good faith effort" for the Kansas Medical Care facilities where all this information is being released.

It was noted, there is statutory language in place regarding contagious diseases information.

Rep. Wells then withdrew her motion.

There was no further discussion.

On SB 716 as a whole, Rep. Wagle moved to pass SB 716 out of Committee favorably as amended. Seconded by Rep. Sader. Motion carried.

Rep. O'Connor will carry the bill for debate in the House.

Chair adjourned the meeting.

The next meeting is scheduled for March 9, 1994.

VISITOR REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

DATE Mar. 8, 94

NAME	ORGANIZATION	ADDRESS
Tom Hitchcock	Bd. of Pharmacy	Topeka
Way Smith	SW	Topeka
Tom Bell	KHA	Topeka
Joe Koe	KDH	Topeka
Pykes	KDHE	Topeka
Jim Stahl	KDHE	Topeka
Rick Guthrie	Health Midwest	KC
Joe Fungaric	KCA	Topeka
KATH R LANDIS	CHRISTIAN SCIENCE Comm ON PUBLICATION FOR KS	TOPEKA
Mary Ellen Onlee	St Francis Reg. Med Center	Wichita
BRENT DAVIS	WICHITA Hosp	Wichita
Kelley Sand	Washington Focus	Overbrook
Danielle Murphy	Washington Focus	Lyndon
Caryn Harmon	Washington Focus	Burlingame
Dale Fink	" "	Osage City
Connie Quamey	" "	Burlingame
Nicole Anderson	Washington Focus	Osage City
Melissa Lang	" "	Quenemo
Tonia Airt	" "	Lyndon
Carol Dayhoff	Washington Focus	Osage City
John C Peterson	Ks Geriatric Consulting	Topeka
Kathy Reardon - monitoring	Ks Geriatric Consulting	Topeka

Kansas State Board of Pharmacy

LANDON 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

SENATE BILL 715

HOUSE PUBLIC HEALTH & WELFARE COMMITTEE MARCH 8, 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 SB 715 AS AMENDED.

THERE ARE FOUR (4) CHANGES IN THE BILL THAT BRING THE KANSAS CONTROLLED SUBSTANCES STATUTES INTO COMPLIANCE WITH THE DESCRIPTION AND SCHEDULING AS FOUND IN THE FEDERAL REGULATIONS OF CONTROLLED SUBSTANCES. THE FIRST IS THAT WHICH MAKES AN EXCEPTION OF A SPECIFIC DRUG WHICH HAS BEEN FOUND TO HAVE A LEGITIMATE MEDICAL PURPOSE AND IS LISTED ON PAGE 1, LINES 27 & 28. THIS DRUG THAT HAS BEEN EXCEPTED FROM SCHEDULE I IS MOVED INTO SCHEDULE II AND NOW FOUND ON PAGE 8, LINES 18 THROUGH 20 WHERE IT MAY LEGALLY BE PRESCRIBED BY PHYSICIANS AND DISPENSED BY PHARMACISTS. THE OTHER TWO CHANGES ARE THE ADDITION OF TWO DRUGS WHICH APPEAR ON PAGE 6, LINES 19 THROUGH 21 AND LINES 22 THROUGH 25 AND ARE NAMED, DESCRIBED AND GIVEN A 4 DIGIT DEA CODE NUMBER FOR IDENTIFICATION. THIS IS SCHEDULE I WHERE THEY MAY NOT BE PRESCRIBED OR DISPENSED BECAUSE THEY HAVE NO LEGITIMATE MEDICAL PURPOSE. THEY ARE MERELY CONTROLLED ON THE STATE LEVEL FOR LEGAL PURPOSES.

THE REMAINING CHANGE WAS REQUESTED BY THE BOARD OF PHARMACY. THIS IS THE ADDITION ON PAGE 14. LINE 27, OF THE DRUG CARISOPRODOL (BRAND NAME SOMA) WHICH DISPLAYS NO DEA IDENTIFICATION NUMBER BECAUSE IT IS NOT SCHEDULED IN FEDERAL REGULATIONS. THIS SCHEDULING IS AN ATTEMPT TO SLOW DOWN THE FRAUDULENT AVAILABILITY OF THIS HIGHLY ABUSED LEGAL DRUG BY ALERTING HEALTH CARE PROFESSIONALS OF THE ABUSIVE POTENTIAL OF THE DRUG.

THE BOARD RESPECTFULLY REQUESTS FAVORABLE PASSAGE OUT OF COMMITTEE SB 715 AS AMENDED.

THANK YOU

*PNW
3-8-94
Attn #1.*

State of Kansas

Joan Finney, Governor



Department of Health and Environment

Robert C. Harder, Secretary

TESTIMONY PRESENTED TO
THE HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE
BY
THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
SENATE BILL 716

Thank you for the opportunity to provide testimony this morning related to Senate Bill 716. This bill amends K.S.A. 65-436 (a) to allow disclosure of hospital data, by facility, collected by the Kansas Department of Health and Environment (KDHE).

Background

Historically, KDHE has collected data related to services provided by medical care facilities. The information collected includes data related to the allocation of beds, special care services, patient statistics, surgical facilities, outpatient services, personnel, staffing, etc. During the years KDHE implemented a Certificate of Need (CON) program, this information was analyzed for decision-making purposes related to health planning and Certificate of Need. K.S.A. 65-436 (a) was amended to delete references to use of the collected data in CON context. Since that time, the data collected by KDHE has generally not been available to the public on an individual facility basis. Data has been released on a summary basis. Medical care facilities have been required to complete the survey under the authority of K.S.A. 65-429.

In addition to the KDHE questionnaire, Kansas hospitals have also completed an annual survey generated by the American Hospital Association through the Kansas Hospital Association (KHA). KDHE and KHA staff have reviewed the survey instruments and have concluded that the data categories are so similar that the completion of two separate surveys is an unnecessary duplication of efforts for the two organizations and Kansas hospitals. Therefore, KDHE and KHA have proposed to collaborate on the distribution, collection, editing, follow-up, and publication of data through the use of one survey instrument. The data would be available to each organization.

Currently, K.S.A. 65-436 (a) would not allow this collaboration, or release of the information collected, which would identify "medical care facilities."

Issues

Two issues are involved with Senate Bill 716. The first relates to the public release of specific data related to services offered by Kansas medical care facilities. The recognition of the need for availability of such data continues to increase. The Kansas Health Care Data Commission

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3-8-94
Attn #2

has been established which will advise the Department on future data needs. Other states are involved with similar collaborative efforts between state and private non-profit data collection entities.

A second issue relates to the availability of information available in KDHE files from other sources. It is our belief that the amendment of K.S.A. 65-436 (a) would not adversely effect program operations of the Department. Other state (Open Records Act) and federal (Freedom of Information Act) statutes related to confidentiality provide guidance regarding disclosure of information in agency files. The protection of information identifying individuals is maintained in the statute.

Conclusion

The Department recommends favorable committee action on Senate Bill 716. The passage of Senate Bill 716 would further enhance Kansas' access to information about services available in licensed medical care facilities.

Presented by: Joseph F. Kroll, Director
Bureau of Adult and Child Care
Kansas Department of Health and Environment

Date: March 8, 1994

PFW
3-8-94
attn #22



Memorandum

Donald A. Wilson
President

March 8, 1994

TO: House Public Health and Welfare Committee

FROM: Kansas Hospital Association

RE: SB 716

The Kansas Hospital Association appreciates the opportunity to comment regarding SB 716. This bill would amend Kansas law to allow disclosure of individual medical care facility data collected by the Kansas Department of Health and Environment.

As noted by KDHE, passage of this bill would allow the Department to collaborate with KHA regarding an annual survey instrument for medical care facilities. As such, the legislation could increase the efficiency of both hospitals and the Department with regard to the provision and analysis of particular data. We look forward to working with KDHE on this project.

TLB / pc

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Attn #3