

Approved: 3-18-94
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on March 9, 1994 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Norman Furse, Revisor of Statutes
William Wolff, Legislative Research Department
Emalene Correll, Legislative Research Department
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Tom Hitchcock, Kansas State Board of Pharmacy

Others attending: See attached list

Hearing on HB 2601 - Pharmacy prescription requirements

Tom Hitchcock, Board of Pharmacy, appeared before the Committee in support of **HB 2601** and noted that the bill changes two statutes under the Pharmacy Act which are K.S.A. 65-1656 and 65-1657. The first change is found on page 2, line 8, of the bill, which strikes the requirement that some record keeping that is required be placed on the face of a transferred prescription. All the information would still be required, but the only requirement which would be placed on the face of the prescription would be the word "void." This change allows the Kansas law to be in compliance with the federal law as found in DEA regulation 21 C.F.R. 1306(a)(1). The pharmacist must comply with this federal regulation if the prescription is for a controlled substance drug. The second change adds the additional subsection which allows the Board to promulgate regulations to exempt from registration a nonresident pharmacy that supplies someone in this state a prescription only in isolated transactions. Without this exemption, every nonresident pharmacy is required to be registered if they send even a single prescription to a patient in Kansas. (Attachment 1) It was also noted by staff that House Committee amendments to the bill would change "may" to "shall" on page 5, line 9; add the description of that which would constitute an isolated transaction on lines 16 through 21, and from statute book to Kansas register in the last section of the bill.

Final Action on SB 802 - License fees for food service establishment

A balloon of **SB 802** was distributed to the Committee showing the proposed amendments that would add a comma after the word "establishment" on page 2, line 10 of the bill, and on line 11, after "establishment," the following language, "or other criteria as determined by the secretary". (Attachment 2)

After Committee discussion, Senator Lee made a motion to adopt the balloon amendments to **SB 802**, seconded by Senator Hardenburger. The motion carried.

Senator Lee made a motion the Committee recommend **SB 802 as amended** favorably for passage, seconded by Senator Hardenburger. The motion carried.

Final Action on SB 687 - Sale of nonprescription medicines and drugs by vending machine

Committee discussion related to specifying in the bill that vending machines be in climate controlled areas which would protect the nonprescription drugs, the nonprescription drugs would have to be in child proof containers, and the owner or licensee of the vending machines would have to allow access to any state inspection to insure that the product inside had not expired or to leave the bill as is. It was noted by Mr. Tom Hitchcock, Kansas State Board of Pharmacy, that a store that dispenses twelve or less nonprescription drugs does not have to have a permit, and the Board does not have the authority to look for expiration dates in those situations, as would also be

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S
Statehouse, at 10:00 a.m. on March 9, 1994.

the case as in vending machines that dispense 12 or less drugs.

Senator Ramirez made a motion to recommend **SB 687** favorably for passage, seconded by Senator Salisbury.

Senator Walker made a substitute motion to amend the bill in which the vending machines be in climate controlled areas and the nonprescription drugs be in child proof containers, and that the Committee recommend **SB 687 as amended** favorably for passage, seconded by Senator Jones. After Committee discussion, Senator Salisbury called for the question. The substitute motion carried.

Discussion on Substitute for SB 84

The Chair outlined the key provisions of **SB 84** and announced that action on the bill would be taken at the next meeting.

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for March 10, 1994.

GUEST LIST

COMMITTEE: SENATE PUBLIC HEALTH & WELFARE

DATE: 3-9-94

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STATE OF KANSAS



JOAN FINNEY
GOVERNOR

HOUSE BILL 2601
SENATE PUBLIC HEALTH & WELFARE
COMMITTEE
MARCH 9, 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 APPEAR BEFORE YOU TODAY ON BEHALF OF THE BOARD OF PHARMACY IN SUPPORT OF HB 2601 AS AMENDED.

THIS BILL IS PROPOSED TO CHANGE TWO STATUTES UNDER THE PHARMACY ACT WHICH ARE K.S.A. 65-1656 AND 65-1657. THE FIRST CHANGE IS FOUND ON PAGE 2, LINE 8, WHICH STRIKES THE REQUIREMENT THAT SOME RECORD KEEPING THAT IS REQUIRED BE PLACED ON THE FACE OF A TRANSFERRED PRESCRIPTION. ALL THE INFORMATION WOULD STILL BE REQUIRED, BUT THE ONLY REQUIREMENT WHICH WOULD BE PLACED ON THE FACE OF THE PRESCRIPTION WOULD BE THE WORD "VOID". THIS CHANGE ALLOWS THE KANSAS LAW TO BE IN COMPLIANCE WITH THE FEDERAL LAW AS FOUND IN DEA REGULATION 21 C.F.R. 1306(a)(1). THE PHARMACIST MUST COMPLY WITH THIS FEDERAL REGULATION IF THE PRESCRIPTION IS FOR A CONTROLLED SUBSTANCE DRUG.

THE SECOND CHANGE IS FOUND ON PAGE 5, LINES 9 THROUGH 16. THIS ADDS THE ADDITIONAL SUBSECTION WHICH ALLOWS THE BOARD TO PROMULGATE REGULATIONS TO EXEMPT FROM REGISTRATION A NONRESIDENT PHARMACY THAT SUPPLIES SOMEONE IN THIS STATE A PRESCRIPTION ONLY IN ISOLATED TRANSACTIONS. WITHOUT THIS EXEMPTION, EVERY NONRESIDENT PHARMACY IS REQUIRED TO BE REGISTERED IF THEY SEND EVEN A SINGLE PRESCRIPTION TO A PATIENT IN KANSAS.

THE AMENDMENTS TO THE BILL AS INTRODUCED, CHANGE MAY TO SHALL ON LINE 9 AND ADDS THE DESCRIPTION OF THAT WHICH WOULD CONSTITUTE AN ISOLATED TRANSACTION ON LINES 16 THROUGH 21, BOTH ON PAGE 5.

THE BOARD OF PHARMACY RESPECTFULLY REQUESTS THE FAVORABLE PASSAGE OUT OF COMMITTEE HOUSE BILL 2601 AS AMENDED.

THANK YOU.

Senate PH&W
Attachment #1
3-9-94

1 adopted by the secretary of health and environment. Application fees
2 may be adjusted in accordance with the type of establishment or
3 based on other criteria as determined by the secretary, but in no
4 event shall any application fee exceed \$100. ~~Such~~ The license fee
5 shall not exceed \$100 and shall be fixed in an amount which, together
6 with the application fee, is sufficient to defray the cost of admin-
7 istering the food service establishment inspection and licensure ac-
8 tivities of the secretary. *In establishing the license fee, the secretary*
9 *shall adopt a differential fee schedule based upon the seating capacity*
10 *of the food service establishment* ~~for~~ *the gross annual revenue of the*
11 *food service establishment, or any combination thereof, as may be*
12 *established by the secretary by rules and regulations.* Prior to the
13 issuance of any such license, the secretary shall inspect or cause to
14 be inspected the food service establishment designated in the ap-
15 plication, to determine that it complies with the standards for food
16 service establishments promulgated pursuant to this act. If such food
17 service establishment is found to be in compliance, the secretary
18 shall issue the license. If the application for license is denied, the
19 secretary shall give written notice thereof to the applicant, stating
20 also that the applicant is entitled to a hearing thereon if a written
21 request therefor is filed with the secretary within 20 days of the
22 date such notice is sent. Such hearing shall be held in accordance
23 with the provisions of the Kansas administrative procedure act.

24 (c) Every license issued hereunder shall be displayed conspicu-
25 ously in the food service establishment for which it is issued, and
26 no such license shall be transferable to any other person or location.
27 Whenever any such license is lost, destroyed or mutilated, a du-
28 plicate license shall be issued to any otherwise qualified licensee
29 upon application therefor and the payment of a fee in the amount
30 of \$3.

31 (d) Any person who, on the effective date of this act, has a valid
32 license to operate a restaurant shall be a licensee under the provisions
33 of this act, and any such license is hereby deemed to be a license
34 to operate a food service establishment issued under the provisions
35 of this act.

36 Sec. 2. K.S.A. 36-503 is hereby repealed.

37 Sec. 3. This act shall take effect and be in force from and after
38 its publication in the statute book.

or other criteria as determined by the secretary

Senate P.H. & C.
Attachment #2
3-9-94