

Approved: 2-20-97
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 February 10, 1997 in Room 526-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Larry Froelich, Executive Secretary, Kansas Board of Pharmacy
Meg Henson, Director of Government Affairs, Kansas Medical Society

Others attending: See attached list

Announcement

The Chair announced that since concerns had been expressed by the Committee relating to policy issues in **SB 128** -- the state's long-term care ombudsman program, it was suggested staff review those concerns and report back to Committee.

Hearing on SB 197 - Definitions regarding druggist

Larry Froelich, Executive Secretary, Kansas Board of Pharmacy, testified in support of **SB 128** which would define "electronic transmissions", "pharmacy student", "pharmacy technician" and "supervision" as noted in his written testimony. (Attachment 1) Committee discussion related to clarifying the definition of pharmacy technician, supportive personnel, and pharmacy student. Concern was also expressed with electronic transmission of prescriptions in the form of e-mail.

There were no opponents to **SB 197**.

Hearing on SB 198 - Prescription requirements

Larry Froelich, KBP, testified in support of **SB 198** which would (1) allow pharmacy students and pharmacy technicians to compound prescriptions under the supervision of a pharmacist, (2) add electronic transmissions as an additional means of conveying prescriptions orders, and (3) restate the current language in Section 1(a) by striking language relating to the filling of prescriptions beyond the one-year period in certain circumstances as noted in his written testimony. (Attachment 2) The Committee expressed concern relating to the term "pharmacy technicians", "e-mail prescriptions" and if records are kept on individuals in regard to compatibility of prescription drugs.

Meg Henson, Kansas Medical Society, expressed her support of **SB 198** except for language that would allow transmittal of prescriptions by e-mail as noted in her written testimony. (Attachment 3)

The Chair suggested the Committee may want to hear from a computer expert on facsimiles and e-mail, and how they would relate to transmitting prescriptions before the bill is worked.

There were no opponents to **SB 198**.

Hearing on SB 199 - Pharmacist license revocation

Larry Froelich, Board of Pharmacy, testified in support of **SB 199** which would (1) allow the Board of Pharmacy to deny renewal if the pharmacist voluntarily surrenders the license after formal proceedings have begun and (2) would allow the Board to revoke, suspend or deny renewal of a license if the pharmacist has had registration revoked, suspended, censured or any disciplinary action in another state as noted in his written testimony. (Attachment 4)

There were no opponents to **SB 199**.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S
Statehouse, at 10:00 a.m. on February 10, 1997.

Hearing on SB 201 - Pharmacy practice, persons engaged in, pharmacy technicians and students

Larry Froelich, Board of Pharmacy, testified in support of SB 201 which would (1) allow a two-to-one ratio of technicians to pharmacists in all pharmacies, (2) add "drug allergies and sensitivities" to the list of items which would be maintained in the profile systems, (3) specify that pharmacists are to use the profile system consistent with state and federal regulations related to dispensing medication, and (4) make it necessary for all electronically transmitted prescription drug orders to conform to federal and state laws or to the Board of Pharmacy rules and regulations as noted in his written testimony. (Attachment 5)

Meg Henson, Kansas Medical Society, noted that even though KMS supports the intent of SB 201, they do have a concern with New Section 2, subsection (3) of the bill that applies to those individuals who are practicing pharmacy in Kansas without a Kansas license, and she noted that the language in this subsection is somewhat broad. KMS does not know what type of "services" these individuals must be performing, and they want to ensure that persons who practice medicine and surgery are exempted from the provisions of this law. (Attachment 6) The Chair noted that the revisor would check on this issue.

There were no opponents to SB 201.

Adjournment

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

The next meeting is scheduled for February 11, 1997.

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1997 KANSAS LEGISLATIVE SESSION Senate Bill No. 197

PHARMACY PRACTICE ACT

Senate Committee on Public Health and Welfare

Monday, February 10, 1997

Madam Chairman and members of the committee, my name is Larry Froelich and I serve as the executive secretary to the Board of Pharmacy. I appear before you today on behalf of the board in support of SB 197.

There are several changes to K.S.A. 65-1626 defining the terms in the Pharmacy Practice Act.

The first requested change defines "electronic transmission" to include a prescription in the form of a Fax or E-mail transmission. Currently, the interpretive answer that I give to those who ask is that if the Kansas Pharmacy Act allows for a prescription to be telephoned, and since a fax is conducted over telephone lines, we allow for faxing of prescriptions as long as the guidelines set out for telephoning prescriptions are followed for the faxing of prescriptions. For example, a schedule II prescription for controlled substances cannot be telephoned; therefore, faxing of the prescription would not be allowed. I don't have an answer to those asking about computer to computer transmission of prescriptions. Defining this term would give the Board Statutory authority to define regulations applicable to this term.

The second requested change defines "pharmacy student" as an individual registered with the board of pharmacy and enrolled in an accredited school of pharmacy. The board reviewed this regulations and determined that we refer to "interns" whereas the colleges have two categories, i.e., interns AND externs. We believe the University should define them as they like and we'll define them as "students."

The third requested change defines "pharmacy technician" as a person under the supervision and control of a pharmacist. The pharmacy technician may perform tasks that are non-judgmental in nature under the pharmacist's supervision, but cannot perform pharmacist's duties as defined by KAR 68-2-20 which states: ". . . reading and interpreting prescriptions, and cannot counsel patients." Although name tags on these individuals state that they are technicians, our current law defines them as "supportive personnel". We need this to better differentiate between the stock boy and the pharmacy technician.

The fourth requested change defines "supervision" as the responsibility of the pharmacist when reviewing the work performed by students and pharmacy technicians. At this time, the definition is interpreted differently and a definitive interpretation is needed for conformity.

Senate Public Health & Welfare
Date: 2-10-97
Attachment No. 1

1997 KANSAS LEGISLATIVE SESSION
Senate Bill No. 198

PHARMACY PRACTICE ACT

Senate Committee on Public Health and Welfare

Monday, February 10, 1997.

Madam Chairman and members of the committee, my name is Larry Froelich and I serve as the executive secretary to the Board of Pharmacy. I appear before you today on behalf of the board in support of SB 198.

There are several requested changes of KSA 65-1637 entitled "Pharmacist required to be in charge of pharmacy; compounding and filling of prescriptions; brand exchange; refilling prescription".

Within the first section, the first change strikes the verbiage "and the compounding and putting up of prescriptions shall be limited to pharmacists only." This will allow pharmacy students and pharmacy technicians to compound prescriptions under the supervision of a pharmacist.

The second change adds electronic transmission as an additional means of conveying prescription orders and provides the board with authority to write regulations by which electronic transmissions may be performed.

The third change restates the current language into a more easily understood form.

Under Section 1, subsection (a), the language is added to mirror the Federal language.

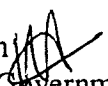
The final change strikes the language that allows prescriptions to be filled beyond one year in certain circumstances. The board believes patients should visit their physician annually to ensure both the patients' health and the necessity for continuance of the medication. Rather than trying to write exceptions to this procedure, it is easier to say "one year", period. If the physician doesn't feel it's necessary to see the patient, they can verbally issue another prescription to the pharmacist. I do not believe, however, that physicians want their prescriptions refilled for longer than one year.



KANSAS MEDICAL SOCIETY

February 10, 1997

To: Senate Public Health and Welfare Committee

From: Meg Henson 
Director of Government Affairs

Subj: SB 198 - Prescription Requirements

The Kansas Medical Society appreciates the opportunity to appear today on Senate Bill 198 regarding prescription requirements.

This bill would permit prescription orders to be transmitted electronically unless rules and regulations prohibit this. KMS understands that this could include facsimiles, which we do not have a problem with. However, this language could conceivably include e-mail transmissions. We are concerned with problems this could create, especially in the area of authentication of the transmission. When prescription orders are transmitted in writing or by fax, the practitioner's name and identification number are contained on the actual prescription sheet. When they are transmitted orally, the pharmacist usually contacts the practitioner's office to confirm the authenticity of the order. It is unclear whether a similar check would be done in the event a pharmacist received an order through e-mail.

Thank you for allowing us to comment on this legislation. I would be happy to answer any questions.

1997 KANSAS LEGISLATIVE SESSION
Senate Bill No. 199
PHARMACY PRACTICE ACT
Senate Committee on Public Health and Welfare
Monday, February 10, 1997

Madam Chairman and members of the committee, my name is Larry Froelich and I serve as the executive secretary to the Board of Pharmacy. I appear before you today on behalf of the board in support of SB 199.

There are two main changes requested in K.S.A. 1996 Supp. 65-1627. The first requested change is located at page 2, line 4, and adds language which prevents a pharmacist currently licensed in this Kansas but practicing pharmacy in another state, and having had formal proceedings commenced against their license in that state, from surrendering their pharmacist license to that state rather than having their pharmacist license revoked by that state. The pharmacist then returns to practice pharmacy in Kansas as if nothing had occurred regarding his license. In cases of major violations, a pharmacist would rather surrender his license to the other state to prevent an action such as revocation of that license as a revocation in another state would affect the status of licensure in this state. In other words, if a pharmacist surrenders a license in another state, licensure in this state remains unaffected. The requested language enables the Board to take action on their pharmacist license even though charges were never brought to finality in the other state.

The second requested change is located at page 3, line 13, and adds language giving this Board authority to take action against a non-resident (mail order) pharmacy's registration whose registration was sanctioned in another state. Typically, this Board would impose the same sanction as imposed in the other state. The sanction would merely mirror the imposing state's sanction and could range anywhere from probation to complete revocation of registration and the privilege of conducting business in this state.

Senate Public Health & Welfare
Date: 2-10-97
Attachment No. 4

1997 KANSAS LEGISLATIVE SESSION
Senate Bill No. 201
PHARMACY PRACTICE ACT
Senate Committee on Public Health and Welfare
Monday, February 10, 1997

Madam Chairman and members of the committee, my name is Larry Froelich and I serve as the executive secretary to the Board of Pharmacy. I appear before you today on behalf of the board in support of SB 201.

There are several requested changes to K.S.A. 65-1642 concerning the practice of pharmacy; pharmacy technicians and students; medication profile record information; and persons engaged in the practice of pharmacy, but not licensed in Kansas.

The first change is located on page 1, lines 22-24, and deletes the language requiring pharmacy's to have the latest edition of the US Pharmacopoeia Dispensing Information (USP-DI) in its reference library. The current statute refers to only the USP-DI as the requirement for the pharmacy library. The specific requirements for the reference library are set out fully in regulation at K.A.R. 68-2-12a. Therefore, the board is requesting deletion of the language in the statute for continuity purposes only, because the full requirements are set in regulation.

The second change is located on page 1, lines 24-27, and conforms statutory language with other bills presented this morning.

The third change is located on page 1, lines 28-33, and increases the pharmacy technician to pharmacist ratio from one-to-one to two-to-one as previously passed for the hospital setting. The board believes increasing the ratio will strengthen the requirement for pharmacist to perform necessary patient counseling. Currently pharmacists tell the board they do not have time to perform patient counseling because they have a work overload. The increase of the ratio brings assistance to the pharmacist thus allowing time for more patient counseling.

The fourth change is located on page 2, line 8, and adds "drug allergies and sensitivities" to the list of items required to be maintained in all pharmacies' medication profile records. The additional information assists the pharmacist when reviewing possible drug reactions relating to the patient and the medication.

The fifth change is located on page 2, lines 11-13, and conforms statutory language with referenced federal and state laws and the board's regulations.

The sixth change is located on page 2, lines 16-17, and requires that the pharmacist consultations regarding potential harmful interactions be documented and recorded on the prescription record.

The seventh change is located on page 2, lines 20-22, and conforms statutory language regarding electronic transmissions as presented this morning.

The eighth and final requested change is complex to present, but simply stated requires pharmacist who are working in the capacity as a pharmacist in Kansas, using the initials "R.Ph." or "PharmD.", and holding themselves out to the general public as pharmacists, be licensed as a pharmacist in Kansas. The best way I can explain the need for this language is to describe the instance necessitating this request. A hospital hired a pharmacist to perform "clinical coordination" and required that the person be a licensed pharmacist. Our current state law

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requires that pharmacists be licensed in Kansas when they are **dispensing** medications in Kansas; therefore the person hired by the hospital was not required to be licensed in Kansas because they were **not** dispensing medications, they were using their pharmacy knowledge in other aspects of pharmacy. They met the requirement for the position which they were hired, the requirement to be a pharmacist and they were using licensure in another state to meet the registration aspect. The board believes the person obtained the position of clinical coordinator by way of vague language in our law and strongly suggests that if the position for which the pharmacist was hired requires them to be licensed as a pharmacist and if they are utilizing the initials "R.Ph." or "PharmD."; holding themselves out to the people of Kansas as pharmacists; using their knowledge gained in a school of pharmacy, that person should be required to be licensed as a pharmacist in Kansas.



KANSAS MEDICAL SOCIETY

February 10, 1997

To: Senate Public Health and Welfare Committee

From: Meg Henson 
Director of Government Affairs

Subj: SB 201 - Practice of Pharmacy

The Kansas Medical Society appreciates the opportunity to appear today on Senate Bill 201 regarding the practice of pharmacy. The bill makes several changes to the pharmacy act.

Although this bill does not pertain to the act governing the practice of medicine and surgery, KMS does have a concern about New Section 2 of the bill. This section defines those persons who are deemed to be engaged in the practice of pharmacy. We understand that subsection (3) of this section is intended to apply to those individuals who are practicing pharmacy in Kansas without a Kansas license. However, the language of this subsection is somewhat broad. For example, we do not know what type of "services" these individuals must be performing.

KMS wants to ensure that persons who practice medicine and surgery are exempted from the provisions of this law. We are fairly certain that another law (K.S.A. 65-1635) exempts duly licensed practitioners from the pharmacy practice act, but we wanted to bring this issue to the committee's attention.

Thank you very much for allowing us to comment on this legislation. I would be happy to answer any questions.