

Approved: February 2, 2004
Date

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 1:31 p.m. on January 29, 2004, in Room 526-S of the Capitol.

All members were present except:

Representative Sue Storm- excused

Committee staff present:

Dr. William Wolff, Legislative Research Department

Renae Jefferies, Office of Revisor of Statutes

Gary Deeter, Secretary

Conferees appearing before the committee:

Representative Patricia Barbieri-Lightner

Judy Keller, Executive Director, American Lung Association of Kansas

Bob Vancrum, Blue Valley USD 229

Christina Collins, Director, Government Affairs, Kansas Medical Society

Representative Willa DeCastro

Jean Higbie, School Nurse, Auburn Washburn 437, representing the Kansas School Nurse Organization

Mark Desetti, Kansas National Education Association

Others attending:

See Attached List.

The minutes for January 28, 2004, were approved.

For purposes of hearing **HB 2478**, Representative Bethell and Representative Showalter chaired the meeting. Representative Bethell opened the hearing on **HB 2478**.

Representative Patricia Barbieri-Lightner, as sponsor of the bill, spoke as the mother of her daughter, Isabella, who is an asthmatic and subject to a peanut allergy, the latter which can be life-threatening and is the cause of 150-200 deaths in the United State each year. (Attachment 1) She said Kansas is one of 26 states that does not provide the right for children to carry medication to protect them from anaphylactic shock. Speaking of a peanut allergy, she said the allergy is a lifelong condition that carries with it susceptibility to other allergens, noting that peanut-induced anaphylaxis requires an immediate epinephrine injection.

Representative Barbieri-Lightner referred to written testimony by Dr. Gerald Goldstein, Kansas City Allergy/Asthma Association, and Cynthia Gensheimer as supporters of the bill. (Attachments 2 and 3)

CONTINUATION SHEET

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE at 1:31 p.m. on January 29, 2004, in Room 526-S of the Capitol.

Answering questions about the bill's reference to grades 6-12, she said she wanted to include younger children such as 6th grade because of their risk of anaphylactic shock. Representative Reitz noted the difficulty of a lay person to make a diagnosis or to use an epi-pen, making it more important for a student to carry his/her own medication.

Judy Keller, Executive Director, American Lung Association of Kansas, spoke in support of the bill, referring primarily to attacks of asthma. (Attachment 4) She said some asthma attacks can also be life-threatening, noting that asthma is the leading cause of absenteeism for students under 15 years of age. Commenting on age capabilities, Ms. Keller said all ages of asthmatic children are encouraged to carry medication. Answering questions, she said occurrence of asthma has soared in the past few decades.

Bob Vancrum, representing the Blue Valley USD 229 School District, spoke as a proponent. (Attachment 5) Answering questions, he said that under present law the school board determines whether or not carrying such medications is permitted. Representative Reitz observed that school nurses may be eliminated if school district budget cuts reduce employees, thereby making this legislation more needful. Mr. Vancrum said without the bill, the issue of a school board's protection from liability is less secure.

Christina Collins, Director of Government Affairs, Kansas Medical Society, in support of the bill, testified that the bill provides a common-sense approach to protect children and remove legal barriers. (Attachment 6)

Representative Willa DeCastro spoke as an opponent to the bill. (Attachment 7) She stated that the legislation is unnecessary and moves the state toward a dangerous area of regulation. She noted that many school districts now allow students to carry medication, and most students are mature enough to use medication properly; but she cited incidents where this was not the case and a student carrying medication endangered other students. She stated that there are other conditions for which this bill might open the door, allowing students to carry other kinds of prescription drugs, including other injectable drugs. Answering questions, Representative DeCastro said giving a form to all parents at the beginning of the school would not address her concerns. She said that, in her school district, allergy policies cover food allergies and are supervised through the school nurse's office. She said after-school programs are sometimes not run by school staff and raise liability questions because they take place in school buildings. She noted that epi-pens and inhalers should be treated differently when formulating policy.

Jean Higbie, School Nurse, Auburn Washburn USD 437, representing the Kansas School Nurse Organization, spoke as an opponent to the bill. (Attachment 8) She expressed concern that creating a blanket permission for students to carry self-medication ignores age- and maturity-related differences. She suggested several changes with more restrictive wording regarding age, capacity, and liability.

Mark Gesetti, Kansas National Education Association, testified in support of the bill with some reservations. He spoke in favor of the intent of the bill, but expressed concern about the liability issues, saying that though the bill should protect the school district, it does not address the issue of disposal of

CONTINUATION SHEET

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE at 1:31 p.m. on January 29, 2004, in Room 526-S of the Capitol.

items such as epi-pens. He said lack of specific training for school personnel also is a concern. He suggested that if a medicine is “regularly administered,” as the bill states, the medicine should be controlled by a school nurse. ([Attachment 9](#))

Written testimony was also provided by the following, who did not appear before the Committee:

- Stuart Little, representing the Shawnee Mission School District (proponent) ([Attachment 10](#));
- William Pankey, M.D., President, Kansas Asthma Coalition (proponent) ([Attachment 11](#));
- Michael Donnelly, Policy Director, Kansas Advocacy and Protective Services (proponent) ([Attachment 12](#)).

A fiscal note received from the Division of the Budget indicated that the bill would have no fiscal impact on either the Department of Education or the Department of Social and Rehabilitation Services. ([Attachment 13](#))

The Chair closed the hearing on **HB 2478**.

Staff Norm Furse provided a briefing on **SB 106**. He said that the bill carries on the project started by Healthy Kansans 2000 by joining the national Healthy People 2010. He said the bill compliments the Kansas Department of Health and Environment for its work with Healthy Kansans 2000 and, in light of the national initiative, enjoins the agency to continue its work by establishing major health-care issues and by establishing prioritized objectives. Mr. Furse noted two technical errors: two words in lines 31 and 32 that should read “complimented” and “Kansans.” He also suggested moving the date for reporting to the legislature and the governor from 2007 to 2008.

The Committee expressed its collective gratitude to Kelly Spoonemore for his technical assistance.

The Committee was adjourned at 3:05 p.m. The next meeting is scheduled for Monday, February 2, 2004.

**HOUSE HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST**

DATE: JANUARY 29 2004

NAME	REPRESENTING
Mrs. Jean Highbie RN.	Kansas School Nurses Organization
Mark Desetti	KNEA
Alice Coleman	KSBN
Melanie Warren	KSBN
Monica Mayer	SRS
Annie Tietze	KNEA
Anna Moon Bradley	KNEA
Karen Godfrey	KNEA
Lori Alvarado	SRS
Janie Ann Lower	KATP
Christina Collins	KMS
Sarah Tidwell	KSWA
Lolly Finney	Ko. Public Health Assn.
Linda Kenney	KDHE
Jimelle D. Austin	Intern
John Rasmussen	KASB
Ryan Wessel	Intern
Chris Huntsman	KNEA - USD 501
Mary Masters	KNEA - USD 501

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST

DATE: 1-29-04

NAME	REPRESENTING
Bob Wancrum	Biolobby USD 229
Michael Savage	KAPS
Stuart Little	Shannon Mission #512
Ron Seebor	Haw Lan Farm
Terri Roberts	Ks. State Nurses Assn.

TO: House Health and Human Services Committee
Chairman, Representative Jim Morrison

FROM: Kansas State Representative
Patricia Barbieri-Lightner
29th District

RE: House Bill 2478

DATE: January 29, 2004

Thank you Chairman Morrison and committee members for allowing me to appear before you today in support of HB 2478, otherwise known as The Kansas Student Self Medication Act , otherwise known as Bella's Act.

This bill would allow students from grades 6 through 12 who have asthma and anaphylaxis to carry and self-administer their prescribed life saving medications in school, or at a school sponsored activity when an emergency situation arises requiring these prescribed life saving medications.

The bill further provides that the student submit a written plan to this effect from their doctor, with an authorization that the student is instructed on the self-administration of said medications, and that the school be held harmless from liability incurred therefrom.

According to an article in the Star Magazine dated September 7, 2003 the Food Allergy and Anaphylaxis Network reported that food-induced anaphylaxis is believed to cause about 30,000 trips to the emergency room and between 150 and 200 deaths each year.

Kansas is one of 26 states that does not provide the right for children to carry these life saving medications. And as the mother of Bella, who is both an asthmatic and has a food allergy which requires her to have an epinephrine to prevent an anaphylactic shock, I seized upon this bill as being an opportunity to provide for my daughter and so many others the ability to protect themselves.

Attachment 1
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Currently in Kansas, school policies concerning these type of medications and whether students can carry them varies from school district to school district. And in some schools, like the one my daughter is currently attending-she is totally disallowed from having her prescribed life saving medications with her at any age. The school nurse must keep the medications locked up and administer it.

In the same Star Magazine article, Jeffrey Wald, an allergist at Kansas City Allergy and Asthma, emphasized that people with a history of severe reactions to peanuts should carry an Epi-Pen, a spring-loaded syringe filled with a lifesaving dose of epinephrine, at all times. He further stated that, **“A delay in administering epinephrine is the one thing that increases the risk of an allergic person having a fatal reaction.”**

I believe we, as the state legislature, must continually work to protect our children. By giving our children the right to carry and self administer their prescribed life saving medications- we are allowing children to be pro-active in saving their own lives, rather than being forced to be passive.

I encourage this committee to step back and realize, if this were your child afflicted with these life threatening conditions, where would you want their prescribed life saving medications, on their immediate person for immediate access, or locked up safely away in a nurse's closet.

I submit to this committee, that allowing this matter to go unattended is denying those school children with asthma and anaphylaxis their rights to a safe and healthy learning experience.

Sincerely,

Patricia Barbieri-Lightner
State Representative
29th District

From: <GGoldstein@aol.com>
To: <health@house.state.ks.us>
Date: Tue, Jan 27, 2004 7:20 AM
Subject: House Bill No. 2478

To whom it may concern:

I am writing this letter in support of the above bill. I am in the private practice of Pediatric (and adult) Allergy and Asthma and have been since 1981. Since I have been in practice the incidence of these diseases has more than doubled on our population. They are now the number one chronic health conditions of our children.

Asthma affects approximately 15% of children and is characterized by often sudden onset of coughing, wheezing and difficulty breathing. There may be a variety of triggers to these attacks including exercise, cold air and exposure to environmental irritants. The necessary treatment is rapid access to an inhaled bronchodilator such as albuterol (Proventil or Ventolin). I believe that most children, after a period of education and training, by the time they are in third grade, are able to be responsible for their own medications and should be allowed to keep their rescue inhaler with them. This should be decided on an individual basis by the parents and physician for each child. Too often we find that the child is struggling to breathe and the rescue medication is quite a distance away or even locked in a cabinet and unavailable to the child.

While asthma can be severe and even life threatening if not adequately treated, anaphylaxis, while not as common, is an even more dangerous, life endangering allergy attack. It requires immediate treatment with epinephrine. Children who die of anaphylaxis usually do so because of delay in receiving their epinephrine. The most common cause is food allergy, especially peanut allergy. This affects about 3% of children and even with excellent teaching and vigilance, accidental ingestions are almost inevitable sooner or later. Peanut products are ubiquitous. Most children in sixth grade or higher are very capable of being responsible for their epinephrine auto-injectors, and are able to self administer them. Therefore, since these devices are very safe, since they are life saving when administered in a timely fashion and since most children can use and care for them, I believe that on a case by case basis, with the physician and parents consent and within the guidelines of the bill, that children in this age group should have the option of being allowed to carry their epinephrine injector.

If further information is needed or you would like to discuss this further please do not hesitate to contact me.

Sincerely
Gerald L. Goldstein, M.D.
Kansas City Allergy and Asthma Assoc.
8675 College Blvd. Suite 200
Overland Park, KS 66210
Tel: 913 491 5501 ext. 120

CC: <jkeller@kslung.org>

Attachment 2
HHS 1-29-04

Cynthia Francis Gensheimer
2503 West 70th Terrace
Shawnee Mission, KS 66208
913-789-8191
cynthiagensheimer@yahoo.com

To: House Health and Human Services Committee
Chairman, Representative Jim Morrison

FROM: Cynthia F. Gensheimer

RE: House Bill 2478

DATE: January 28, 2004

As the mother of a child who has asthma and is severely allergic to peanuts, I would like to voice my strong support for House Bill 2478, which could make the difference between life and death to those with severe allergies to certain foods, drugs, and insect stings.

H.B. 2478 would enable children from sixth to twelfth grades to carry their EpiPens and asthma inhalers with them during school and to school-sponsored events, as long as a doctor has written a statement describing the circumstances under which it would be appropriate to administer the medication.

Our daughter, Juliana, is in fifth grade, and she is well aware of how dangerous her situation is. I can attest to the fact that by sixth grade students with asthma or severe allergies would certainly be mature enough to recognize the symptoms that would call for their needing their asthma inhalers or EpiPens.

I'd like to relate to you two very sad anecdotes relating to children with peanut allergies who died because their EpiPens were not readily accessible. Sadly, these were all three children of physicians who should have known to carry EpiPens with them at all times and who were present when their children died. In one case, the child was at a Christmas party and took a bite out of a cookie that contained peanuts. The child was rushed to the hospital but died before epinephrine could be administered. In the other case, which happened just last spring in San Francisco, two parents, both doctors, took their two children to a Vietnamese restaurant. Since both children were allergic to peanuts, the parents asked if the spring rolls contained peanuts. They were told that they didn't, so the children ate the spring rolls, and both of them died, again because their EpiPens were not available.

Because of Juliana's peanut allergy and asthma, we have an EpiPen and asthma inhaler at the nurse's office at her public elementary school. In addition, her teacher

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knows of the peanut allergy, and at the beginning of each school year I write a note to all the parents of children in her class telling them of the allergy and asking that when they send in treats that they notify the teacher if any contain peanuts. In fact, just five minutes ago as I was writing this letter, the mother of one of the children in the class called to say she would be making cupcakes for Valentine's Day and ask whether it was okay to use peanut oil. So, we feel comfortable that during the school day that Juliana will be safe.

However, last year Juliana had a scare. She was helping the girl sitting next to her clean up some trail mix that had fallen on the floor. Juliana didn't realize that the trail mix contained peanuts, and as soon as she touched it, she broke out in hives. Luckily, the nurse was in her office, and she was able to administer the appropriate remedy right away, so that Juliana was able to return to her class a short while later.

But what happens when the nurse is absent or away from her desk? Or at a school where statewide budget cuts forced cutbacks in nurses and parents weren't able to pay to retain a full-time nurse? And what happens when Juliana is staying after school for Girl Scouts, science club or athletics and the nurse has gone home for the day? That's when I worry. Juliana knows always to ask about peanuts, but we've had some scary experiences nonetheless. Once a friend was offering her a handful of candy, and Juliana asked whether it contained peanuts. The girl said no, but as soon as Juliana put a piece in her mouth she felt the strange reaction coming on. The bottom line is that accidents will happen, and we all have to be prepared for them.

We have two children who are in college, so I know how much traveling high school students can do for school-sponsored activities. One of our children debated all over Kansas and twice represented the state of Kansas in the national academic decathlon—once in Alaska and once in Texas. The other ran cross country and again traveled regularly to meets. Not to allow teenagers to carry their medication with them when they participate in school-sponsored activities is courting disaster.

EpiPens and Asthma inhalers are not drugs subject to abuse. These are life-saving devices that must be quickly available in case of emergency. By its very nature an emergency is not something that can be predicted with any accuracy. Children old enough to recognize their symptoms and administer their own medicine should have the right to do so. As I said before, this is a matter of life and death.

Thank you for considering my input.

**To Members of the Kansas House of Representatives
Health and Human Services Committee
Re: HB 2478
Presented by Judy Keller, Executive Director
American Lung Association of Kansas
January 29, 2004**

Asthma is the leading serious chronic illness among children. There are approximately 37,000 youth (children under the age of 18) in Kansas who had an asthma attack in the past year.

Most children have mild to moderate problems, and their illness can be controlled by regular treatment at home or in the doctor's office. But for some children the illness is a life-threatening, terrifying problem, which causes frequent visits to the hospital emergency room. This can be more frightening to a child when the attack happens at school, away from home and parents.

Asthma accounts for 14 million lost school days annually in the United States. It is the leading cause of school absenteeism attributed to chronic conditions. Asthma is the third leading cause of hospitalization among children under the age of 15 and it is the first-ranking chronic condition.

Asthma is a reversible obstructive lung disease, caused by an increased reaction of the airways to various stimuli. An asthma attack can be brought on by allergies, vigorous exertion, exposure to secondhand smoke or chemical fumes and many other triggers.

Because children spend more than six hours a day in school, it is important that they be assured of proper asthma management during this time away from home. Reducing exposure to asthma triggers and providing the opportunity for self-management will improve the health of students with asthma.

Students should know how to properly manage their asthma and should have direct, immediate access to their medication. It can save their lives. Easy access to and correct use of asthma medication also are necessary to avoid serious respiratory complications and improve the student's quality of life.

Thank you.

Attachment 4
HHS 1-29-04

Testimony in Support of House Bill 2478
House Health and Human Services Committee

Dear Chairman Morrison and Honorable Members of the Committee:

I am here today representing Blue Valley Unified School District No. 229. We are here to support House Bill 2478 by Representative Barbieri-Lightner.

This Bill would permit students in grades 6-12 who may require emergency use of asthma medication or epinephrine auto-injector to carry and self-administer such medications in the school, or at school-sponsored activities. The Bill would also exempt the school district and governing body from liability in the event of any claims relating to the self-administration except in the case of active negligence by the school or its employees.

Our understanding is that 11 states now permit self-medication for both asthma and anaphylaxis and another 14 permit self-administration of asthma medications only. We would recommend favorable passage of House Bill 2478.

Robert J. Vancrum

Attachment 5
HHS 1-29-04

TO: House Health and Human Services Committee

FROM: Christina Collins
Director of Government Affairs
Kansas Medical Society

DATE: January 28, 2004

RE: HB 2478

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify today on behalf of the Kansas Medical Society in support of HB 2478. The bill represents a common sense approach to administration of medications at school facilities in situations where time is of the essence. This is helpful legislation that eliminates unnecessary administrative and legal barriers between children and their receipt of easily administered potentially life-saving medications. Our members tell us the bill reflects what is frequently done in schools but removes the specter of liability for involved parties. We respectfully urge the passage of this legislation.

Attachment 6
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WILLA DECASTRO
 REPRESENTATIVE 96TH DISTRICT
 MAJORITY CAUCUS CHAIR



TOPEKA
 HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 MEMBER: HEALTH & HUMAN SERVICES
 K-12 EDUCATION
 SOCIAL SERVICE BUDGET
 JT. COMMITTEE ON CHILDREN'S ISSUES

HB 2478

Thank you Mr. Chair and Members of the committee,

I would like to make two points about this proposed legislation:

- 1) To question if it is needed
- 2) The direction it may take us.

While I most certainly appreciate what the author's intent is for HB 2478, I question the need. Currently many school districts allow the students to do exactly what this bill requests. However the bill leads to several concerns.

The bill addresses asthma and allergies, but there are other diagnoses that could claim equal importance to carry medications, for example diabetes.

Sec. 3 c gives parents an option of where to file their information. The concern here is that the nurse could be by-passed. The role of the nurse is to monitor health care concerns. The nurse assesses the student's knowledge and responsibility. She also has the authorization to inform others on a "need to know basis" and help others, i.e. teacher or administrator, know how to assist the student if need be. While using the epi-pen may be simple, the student using it is still at risk and needs to be supported and referred for follow-up treatment. We also have many regulations from OSHA, KDHE and our schools safety departments on how to dispose of injectables.

Another concern under this section is that school personnel are not involved in determining if a student should manage their own drugs. A 6th grade student should have the maturity to carry some medications. The reality is that some forget them at home, allow them to expire or can't find them in the locker.

While section "d" addresses liability, who has the liability when a student misuses his medications? Will the school be without liability and the parent held responsible on those occasions when a student thinks it is "cool" to spray the inhalers in the classroom? Not only does this waste expensive medication, may cause him to not have it when needed but can be a real danger to other students that could have a reaction to it. Who is liable when the student allows other students access to the medication? The school should have the right to revoke the privilege when the student mishandles the medication.

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I also have concern that if this bill passes, the public will believe students are free to carry all kinds of medications or that they do not need the schools approval and we will have children in our buildings with health concerns we are not aware of. While this happens to some extent now, the problems could increase.

I have available the medication request, physician authorization and the form for the nursing plan that is used in the Wichita district. I am confident the other districts have similar documentation that is very reflective of this bill. So again I raise the question, is legislation needed or is it better to leave this policy with local school boards?

Thank you. I will stand for questions.

Rep. Willa DeCastro
R.N. School Nurse

Kansas School Nurse Organization Response to House Bill No. 2478: "An ACT relating to health care concerning self-medication by students in secondary schools"

School nurses' primary concern is for the health and safety of all students. It is important that students with a health diagnosis that requires them to carry and self-medicate, be allowed to do so as long as they know how, when, and why to use the medication, are knowledgeable in what actions to take if the medication is not effective, and know what side effects may occur from the medications they are taking. The student needs to demonstrate knowledge and responsibility before being allowed to carry their own emergency or asthma medications. This would need to include knowing when to self-medicate and notifying an adult if they self-medicated so that proper follow up could occur, e.g. self-medication with an epipen would need to be followed up as a second reaction can occur within 15 minutes. The Registered Professional School Nurse needs to have an active role in coordinating medication management in the school setting to ensure that care is appropriately integrated throughout the student's school activities. Health management plans must be written and in place for asthma and other health issues such as diabetes, seizures, severe allergies, and migraines. Many schools already have policies that allow students to carry their medications, once the student has had an evaluation with their physician, has a health care plan in place and has clearly demonstrated the ability to carry out this responsibility.

The Kansas School Nurse Organization would like to suggest the following changes to House Bill No. 2478:

Sec 3 (a) – Change to "a student in middle/junior high/high school".

Rationale: For some Kansas schools, 6th grade is part of elementary school. It would be confusing to have a different policy for just the 6th grade students in an elementary school.

Sec 3 (b,c,d, &e)

(b) All school districts shall create a policy for management of self-administration of emergency medications for students in middle/junior high/high school. The student shall meet all requirements of said policy which may include:

- (1) Providing a written statement from the student's health care practitioner stating the name and purpose of the medication; the prescribed dosage; the time the medication is to be regularly administered, under what additional special circumstances the medication is to be administered; and the length of time for which the medication is prescribed.
- (2) Providing a written authorization stating such student has been instructed by the physician on self-administration of the medication and is authorized to do so in school.

Attachment 8
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(c) Further, the school district or governing body of each public and non-public and its employees and agents shall incur no liability as a result of any injury sustained by the student from the self-administration of such medications. Nothing in this subsection shall be construed to relieve liability of the school, its employees or its agents for negligence.

(d) Schools may require annual renewal of permission for self-administration of medications.

The Kansas School Nurse Organization would re-evaluate our support of this bill if the bill were rewritten as suggested. We cannot support passage of House Bill 2478 as it is written today. We, Kansas School Nurses of The Kansas School Nurse Organization believe "Every Child Needs a School Nurse".

Mary Ann Shorman RN, BSN
Kansas School Nurse Organization

Mark Desetti Testimony
Committee on Health and Human Services
Thursday, January 29, 2004

Thank you for the opportunity to appear before you today to speak on House Bill 2478. My name is Mark Desetti and I represent the Kansas NEA.

We believe that the intent behind this bill is simply to ensure that students, in emergency situations, receive medical attention that is life-saving. In emergency situations, we agree with the intent.

Section 3 (d) protects that school district, school, and school personnel from liability and we think that is essential. If a student must self-medicate and the requisite permissions are on file, then indeed the district, school, and personnel must never be held liable when things go wrong.

But there are other liability questions that need to be addressed.

First, in the case particularly of "epinephrine auto-injectors," what will protect the school or school personnel should these items be exchanged or not disposed of properly. In the wrong hands they are dangerous and care must be taken to control access to them both prior to use and after use. I wonder how the liability protections in this bill would address this situation.

For medications that are "regularly administered" is it not better that they be kept controlled in the nurse's office?

Secondly, while the bill requires that statements from health care providers and students be kept on file in either the nurse's office or the principal's office, there is no requirement that the teachers with whom the student comes in contact be informed of the permission to self-medicate. We believe that if this bill is passed, it is critical that school personnel know for whom such permission has been granted. An uninformed school employee might intervene with a student and unwittingly cause the very crisis that this bill attempts to address.

Attachment 9
HHS 1-29-04

January 29, 2004

House Health and Human Services Committee

Testimony on HB 2478

Thank you Mr. Chairman and members of the Committee. My name is Stuart Little and I am the lobbyist of the Shawnee Mission School District #512. The Shawnee Mission School District welcomes the opportunity to submit written testimony on HB 2478.

Currently, we allow older children to carry inhalers and Epi-pens provided they have written permission from a physician and parent. Our health and safety specialists believe, based on the best current information, that children should have immediate access in case of emergency. Children below the sixth grade who require such medication often need assistance and therefore inhalers and Epi-pens are often located in the nurse's' office.

We support the passage of HB 2478.

Attachment 10
HHS 1-29-04

From: <Kimberly_Babcock@firstguard.com>
To: <health@house.state.ks.us>
Date: Tue, Jan 27, 2004 11:33 AM
Subject: HB2478 testimony

To the members of the Kansas House of Representatives Health and Human Services Committee
Re: HB2478

The Kansas Asthma Coalition strongly supports any effort to educate Kansas children diagnosed with asthma about how they may better manage their disease. Better asthma control reduces the likelihood of asthma attacks that can lead to missed school days and reduced participation in activities for the child.

Children who understand how and when to properly use their asthma medications should be allowed to carry and self-administer medications. This proper usage means they should follow a written Asthma Care Plan developed in conjunction with their primary care physician or asthma specialist.

The Kansas Asthma Coalition's mission is to improve the health and quality of life for Kansans diagnosed with asthma. Our goal is to identify undiagnosed asthma by increasing awareness of asthma symptoms for the general public and providing data and information to health care providers about the diagnosis and treatment of asthma.

William Pankey, M.D.
President, Kansas Asthma Coalition
Vice President, Medical Administration
FirstGuard Health Plan

Attachment 11
HHS 1-29-04



KANSAS ADVOCACY & PROTECTIVE SERVICES, INC.

3745 SW Wanamaker Road
Topeka KS 66610
(785) 273-9661
(785) 273-9414 Fax
(877) 776-1541 TDD/Voice
Web site: www.ksadv.org
e-mail: info@ksadv.org

Testimony to the House Committee on Health and Human Services

Chairman Morrison and members of the committee, my name is Michael Donnelly. I am Director of Policy and Outreach for Kansas Advocacy and Protective Services. KAPS (Kansas Advocacy & Protective Services, Inc.) is a public interest legal advocacy agency, part of a national network of federally mandated and funded organizations legally empowered to advocate for Kansans with disabilities.

The principal of students having direct access to medically necessary medications at the time it is needed is very important. It appears that this piece of legislation has been offered to take that principal and make it the policy of the State of Kansas. KAPS agrees that Kansas needs to implement a statewide policy that provides students with both the option, and the right to administer their own medically necessary medications. The decision to allow students to self medicate varies district by district. This "patchwork quilt" approach to policy is not effective, especially for students with disabilities.

KAPS has taken an interest in HB 2478, because it is our position first that Kansas needs a statewide policy regarding how and when students are empowered to administer their own medications. And second, that if principal is applied to students with asthma or allergies it should also empower students who have disabilities and who often take medically necessary medication regularly, or use other types of medically necessary assistive devices, to do the same. If enacted, all students who need and take medication should benefit from this new law, regardless of the condition for which it is prescribed.

Many youth who have disabilities take medication during school hours and activities and that medication is more often than not, locked up and administered by school personnel, e.g., school

Attachment 12
HAS 1-29-04

nurse or teacher. Over the last few days KAPS has asked several disability related organizations to comment on whether this proposed new law would benefit children they work with or represent. Two of their responses are as follows.

1. According to Families Together, “a statewide non-profit organization serving families in Kansas which include a son or daughter with a disability”, parents of youth with disabilities have reported that their child either did not receive their medication while at school, or have been given their medication late which has caused problems for their child.
2. A parent, Stan, wrote “when my son was in elementary school, it was not unusual for my son to miss the medication he was taking for his ADD. We noticed that he was not doing as well in his late afternoon coursework when he did not get his meds. The teacher said that, especially with a large class size, she did not have the ability to remember which child got their meds at what time.”

We know that empowering students to self medicate will not cure all of the ills in the current system. However, where possible the rights of those students with the need to access medically necessary prescription medications can be preserved by developing this kind of statewide policy.

KAPS also sees great benefit, although unintended, in the new statute in protecting the privacy for youth with disabilities who need to take medication regularly at school, but who must either get it from a teacher, school nurse or other school employee. The option to self-medicate provides for a less public identification of the disability, or disabilities that a student may experience.

It is our recommendation that HB 2478 should provide all students, with or without disabilities the right to administer their own medication when the parent and prescribing health care professional (as identified in subsection 2, d.) determine first, that it is medically necessary, and secondly, that they have the capacity, training and experience to do so. KAPS is available to assist this committee in drafting a bill that meets that need.

KANSAS

DIVISION OF THE BUDGET
DUANE A. GOOSSEN, DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

January 16, 2004

The Honorable Jim Morrison, Chairperson
House Committee on Health and Human Services
Statehouse, Room 171-W
Topeka, Kansas 66612

Dear Representative Morrison:

SUBJECT: Fiscal Note for HB 2478 by Representative Barbieri-Lightner

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2478 is respectfully submitted to your committee.

HB 2478 would authorize students in grades 6 through 12 to possess, carry, and self-administer asthma medications or epinephrine auto-injectors in school, at a school-sponsored activity, or under the supervision of school personnel. The student must have asthma or allergies that require the emergency use of medication, and the student's health care practitioner must provide a written statement outlining the use of the medication. The student's parent or guardian must sign a statement to release the school from any liability relating to the self-administration of the medication.

Enactment of HB 2478 would have no fiscal effect on either the Department of Education or Department of Social and Rehabilitation Services.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Dale Dennis, Education
Jackie Aubert, SRS

LONDON STATE OFFICE BUILDING, 900 SW JACKSON, SUITE 504, TOPEKA, KS 66612

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Attachment 13
HHS 1-29-04