

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:30 p.m. on February 15, 2011, in Room 152-S of the Capitol.

All members were present except:

Senator Bob Marshall - excused

Committee staff present:

Sharon Wenger, Kansas Legislative Research Department
Laura Younker, Kansas Legislative Research Department
Jason Long, Office of the Revisor of Statutes
Eunice Peters, Office of the Revisor of Statutes
Dale Dennis, Deputy Commissioner, Kansas Department of Education
Dorothy Gerhardt, Committee Assistant

Conferees appearing before the Committee:

Senator Oletha Faust-Goudeau
Joni Bradley, Peace & Social Justice Center of South Central Kansas
Doug Everingham
Monica Guilliams, USD #402
Debra Cullom
Mark Tallman, KASB
Dr. Dennis Cooley, President, Kansas Chapter, American Academy of Pediatrics (written only)
Mandy Pilla, Wichita
Cindy Galemore, USD #233
Diane Gjerstad, USD #259 (written only)
Debra Billingsley, Executive Secretary, KS State Board of Pharmacy (written only)

Others attending:

See attached list.

Hearing on **SB 51 - School districts; requiring only parental consent to dispense over-the-counter medication to students.**

Jason Long, Office of the Revisor of Statutes, appeared before the committee with a brief summary of the proposed legislation. **SB 51** would authorize a school district to adopt policies for dispensing of medication to students. The bill would allow students to be given over-the-counter medication in the recommended dosage provided the school has obtained written consent from the parent or legal guardian. However, the bill would not require a school district to obtain a health care provider's written authorization prior to dispensing over-the-counter medications or to require a school nurse or other school employee to dispense over-the-counter medications, other than as recommended on the label of the medication package.

Senator Oletha Faust-Goudeau appeared before the committee in support of **SB 51** (Attachment 1). She stated this legislation would provide another tool for school nurses to assist students with health needs enabling them to remain in class. She also stated the passage of this legislation would help students of families who are uninsured/underinsured and do not have access to a physician to get authorization for over-the-counter medications for minor first aid needs during school hours. Speaking from personal experience, she stated it would have been convenient for her had the nurse been able to provide the over-the-counter medication with only her consent.

Joni Bradley, Peace & Social Justice Center of South Central Kansas, provided testimony also in support of the legislation (Attachment 2). She stated that as a former school nurse, she had seen many times the value of allowing parental consent for administration of over-the-counter medication during school hours. She provided a copy of the consent form being used by USD #402 which contains a disclaimer releasing school nurses from liability, a form used by many camps and summer classes.

Other conferees providing testimony in support of **SB 51** included Doug Everingham (Attachment 3), Monica Guilliams, USD #402 (Attachment 4), Debra Cullom (Attachment 5), Mark Tallman, KASB (Attachment 6), and Dr. Dennis Cooley, Pres., KS Chapter, American Academy of Pediatrics (written

CONTINUATION SHEET

Minutes of the Senate Education Committee at 1:30 p.m. on February 15, 2011, in Room 152-S of the Capitol.

only) ([Attachment 7](#)).

Mandy Pilla, Wichita, a former school nurse, provided testimony in opposition to **SB 51** ([Attachment 8](#)). She stated most school districts already had a policy in force for their district, one developed by assessing the benefit/risk ratio for their student population. She stated this bill does not allow that type of local control to continue for school districts and what works in one school district may be totally inappropriate in others.

Cindy Galemore, USD #233, also provided testimony in opposition to **SB 51** ([Attachment 9](#)). Her testimony included the statement that the Olathe school district, a district of over 28,000 students, had not received a complaint concerning the district's over-the-counter policy within the past two years and they are opposed to legislation that mandates a district have a policy regarding OTC administration.

Diane Gjerstad, USD #259 (written only) ([Attachment 10](#)) and Debra Billingsley, Executive Secretary, Kansas State Board of Pharmacy (written only) ([Attachment 11](#)) each provided testimony in opposition to the proposed legislation.

Following committee discussion, the hearing on **SB 51** was closed.

The next meeting is scheduled for February 16 , 2011.

The meeting was adjourned at 2:30 p.m.

SENATE EDUCATION COMMITTEE GUEST LIST

DATE: February 15, 2011

NAME	REPRESENTING
Christopher Jordan	Sen. Morris
Julie Jamis	myself
Mandy Pilla	myself
Tamara Hall	self
Cindy Galemore	Olathe District Schools
Nomica Williams	Augusta District Schools
Leslie Henline	Augusta USD 402
Douglas R. Everingham	Myself
Delna Cullom	Myself - parent in Blue Valley Schools
Dr. F. Bradley	Peace & Social Justice Center South Central Kansas
Travis Lowe	Little Earth Relations
Lee Harm	KS BOE
Jennifer Graw	501 Topeka Public Schools
DEBRA KEN	MEIN LAW FIRM

STATE OF KANSAS

OLETHA FAUST-GOUDEAU

SENATOR, 29TH DISTRICT

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TOPEKA

SENATE CHAMBER

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CHILDREN'S ISSUES

ECONOMIC DEVELOPMENT

Senate Education Committee

Chairman, Jean Schodorf

Vice-Chair, John Vratil

Ranking Member—Anthony Hensley

Honorable Members of Committee

Good Afternoon,

Thank You for the opportunity to testify in support of SB-51 on behalf of concerned nurses, parents and constituents of the 29th Senate District in Kansas. The intent of this legislation is to provide another tool for school nurses to assist our students with health needs such as toothaches, headaches, etc., in an effort to keep them in class and learning.

I believe SB-51 will help students of families who are uninsured/underinsured and do not have access to a physician to get authorization for over-the-counter meds for minor first aid needs during school hours.

As a parent, I recall a situation where I had taken my daughter to an orthodontist appointment to get her braces tightened and dropped her off at school and then I got on the highway to come back to Topeka when I received a call from my daughter that her mouth was hurting and she needed something to relieve the pain. I had to turn around and get off the highway and go back to the orthodontist office to get authorization from him to give her a Tylenol to relieve the pain. It would have been convenient for me, had the nurse been able to provide the over-the-counter medication with only my consent.

I urge your support for SB-51.....Thank You,

Senator Oletha Faust-Goudeau

Senate Education
2-15-11
Attachment 1

Sharon Scarbrough

From: J bradley [jbradleyzack@yahoo.com]
Sent: Friday, February 11, 2011 9:40 AM
To: Oletha Faust-Goudeau
Subject: Testimony for SB51
Attachments: Augusta form.doc

I am here today to voice my support for Senate Bill 51. This bill would allow parents to consent for administration of OTC (over the counter) medication during the time that their children are in school. Many districts already have this policy in place, and find it to be helpful in increasing the time that children are in the classrooms. State law requires a physician's authorization on prescription medication, but not on OTC medication. This bill would align the school districts statewide to be more consistent with the state law.

As a former school nurse I have witnessed many situations where I could have helped alleviate a child's suffering if we could only allow a parent to consent. Children of poverty should not have to suffer because they do not have the benefit of a primary care physician. With childhood poverty on the increase Senate Bill 51 would help protect these children. A dental referral, even when emergent, may take a few days to complete. Is it a fair practice to return the child to class with a toothache? How much meaningful instruction will take place with the child who is in pain?

Senate Bill 51 is not asking nurses to treat and diagnose. It proposes that a school nurse or a person the nurse has delegated may continue the regimen of OTC medication that the parents have used previously with their child.. School nurses are educated health care professionals and are capable of implementing this parental consent statute in a responsible manner. Nurses and school personnel in general enjoy a heightened sense of trust by the community at large. These are the people entrusted with the care of our children while they are in school.

One of the greatest concerns that nurses have is the increased liability they would have with a statute such as this. I have contacted school districts with parental consent in place and they have not had litigation concerns with these policies. The form that USD402 has a disclaimer. This form is a very good tool, it has pertinent medical information, the physician information if they have one, a listing of allergies, and a text box with the medications that a parent may give permission to be dispensed during the school day. Many camps and summer classes have these kind of forms as well.

Another concern that needs to be addressed is the increased work load on the nurse and or school personnel. When students go untreated, their ailments may take much longer to resolve. I remember having students waiting in my nurse office for hours because I was unable to reach their parents. A student with an ailment such as a toothache or earache, even if needing a medical referral, could be returned to class once their pain resolved. It is not a compassionate practice to ignore the suffering of a child.

The support for Senate Bill 51 from the medical community is overwhelming. Many physicians believe that the current practice of requiring a physician's authorization for OTC discriminates against those students who need our help the most, the children of poverty. They feel that school nurses are competent and capable of overseeing the dispensing of OTC medications.

The State loses money from income tax revenue when a parent has to take off work to administer OTC medication to their child. In these tough economic times, every dollar can make an impact on our State budget. And what about the parents who do not have transportation? Again, there is no choice but for the student to suffer with his malady.

Senate Bill 51 would have many benefits for our state. Children would return to class in a timely manner, the State would not lose income tax revenue from parents having to take off work, and the children of poverty would enjoy the same option of OTC treatment as the children who have doctors. The benefit to the family would be a more compassionate approach in helping meet the needs of their children. Please think of all of the children, their parents, and the physicians, and support Senate Bill 51.

Joni Bradley
1316 N Emporia
Wichita, Ks 67214

MEDICAL INFORMATION – 2009-2010

PLEASE COMPLETE THIS FORM AND RETURN WITH YOUR OTHER ENROLLMENT INFORMATION.

STUDENT NAME: _____ DOB _____ GRADE: _____

PARENT'S NAME: _____ Phone # work: _____ home: _____

(Please list numbers to be reached at during school day) cell: _____

EMERGENCY CONTACT: (if parent can't be reached) _____ Phone #: _____

Doctor's name and # _____ Specialist's name and # _____

Eye Doctor's Name and # _____ Dentist's name and # _____

Does your child take any medication on a regular basis? Yes No If so, please list medications and time(s) taken:

Any prescription medication to be administered at school will require doctor's orders and parent permission for each.
Forms are available from the school nurse.

The school nurse can provide an Individualized Health Plan (IHP) for any student with an identified health care concern. The IHP's help to ensure a better understanding of your child's health needs and facilitate the school nurse and staff in meeting those needs. Do you feel your child is need of an Individualized Health Care Plan? Yes No If you answer yes, we will contact you for further information.

Complete the Health Problems section below to identify any health concerns we should be aware of for your child.
HEALTH PROBLEMS

Medical Condition	Yes	Comments
ADD, ADHD		
Allergies (seasonal, food, drug, latex...)		Indicate what allergic to:
Asthma, Respiratory problems		Triggers: Inhaler: Yes No
Cancer (or history of)		
Cystic Fibrosis		
Diabetes, Type I or II (circle type)		Oral Meds Yes No Insulin Yes No
Gastrointestinal Disorders (stomach or bowel)		
Headaches/Migraines		Triggers:
Hearing Deficit		

Medical Condition	Yes	Comments
Heart Problems		
Hypoglycemia		
Muscle/Skeletal Problems		
Psychological/Social Disorders		
Seizures		
Type:		
Date of last::		
Shunt		
Spina Bifida		
Surgeries		
Traumatic Brain Injury		
Vision Problems		
Glasses or Contacts		
Other		

Please provide us with any additional information you feel we would need to know about your child: _____

TREATMENT PERMISSION: Place a mark (X) by each over-the-counter treatment you approve of for use for your child.

- _____ Triple Antibiotic Ointment (Minor cuts and scrapes)
- _____ Cleansing foams/solution (contains mild pain reliever and antibacterial aide; gentler than Hydrogen Peroxide)
- _____ Benadryl®, Caladryl®, Hydrocortisone Cream/Gel (minor rashes, bug bites, poison ivy, irritants-non-contagious, etc)
- _____ Cough drops (for complaints of sore throat, cough, etc. Hall's®, Luden's®)
- _____ Tylenol®, Acetaminophen (for headaches/aches/pains). Age/weight appropriate dosages per manufacturer's directions.
- _____ Ibuprofen ((for headaches/aches/pains). Age/weight appropriate dosages per manufacturer's directions.
- _____ Antacid (Tums®, Rolaids® for occasional stomach indigestion complaints)

I authorize the use of the above over-the counter-products for my child in the event of the conditions listed after the medication. I understand that the school nurse will review this information, although a non-nurse may be designated and trained to administer them (K.A.R. 60-15-101-104). I certify that my child has received the above medications before with no adverse effects and/or reactions. I agree not to hold Augusta USD 402 and its representatives responsible for any possible adverse reactions as a result of application or consumption of above marked items. I understand that it is my responsibility to notify the school nurse of any changes in health status or medications. (Sign Below)

This form is in effect for the 2009-2010 School year.

Parent/Guardian Signature _____

Date _____

Please circle school attending: AHS AMS Ewalt Garfield Lincoln Robinson ALC

As a former school social worker of USD 259, I can recall numerous occasions when I would be asked to take a child home due to minor pain the child was experiencing. In all of these cases the parent or parental caregiver had been called, but for numerous reasons could not provide transportation for the child. Had the school nurse been allowed to administer over the counter medication the child could have remained in school.

School nurses have clinical training that supports their ability to make professional assessments in regards to dispensing over the counter medications. With proper forms filled out by parents at the beginning of the school year parents still have the final say about whether or not non prescriptive medications could be provided for their child.

The argument that our society encourages pill pushing (a quote from an article published in the Eagle by the director of school nurses in USD 259) and using our schools to administer non- prescriptive medication would only enhance this phenomenon implies that school nurses like our society are pill pushers waiting for permission to dispense pills holds little merit, and speaks negatively of school nurses.

Under our current economic condition many of our school children lack good medical care; in some cases no medical care. Calling the family physician for permission to provide over the counter medication assumes that all children have access to a "family physician". For children of poverty this simply isn't true. Families of poverty use emergency room services only. Children deserve the same access to non prescriptive medical care as we adults do every time we walk into a drug store. These medications are a common part of our bathroom

supplies. Why withhold this same access from our children when they are in the school building? They deserve the same kind of treatment we give ourselves. It certainly isn't common practice for adults to call the family doctor at work when we take an over the counter cold medication.

And as for the argument of school districts withholding reasonable services due to potential law suits; humane practice should not be driven by the fear of litigation.

The proposed house bill 51 would do much to assure that the children of the State of Kansas would receive the nurture and care they deserve in school while meeting the goal of maximum time in the classroom for continued learning. I favor this bill.

Doug Everingham

5125 E. Tenth Wichita, Ks. 67208

Ph. 686-0491

Veronica
1. 3-2-2011

The school nurses of USD #402, Augusta Public Schools, would like to express our support for SB51. According to the National Association of School Nurses, "the essence of the practice of the school nurse is to support student success by providing health care assessment, intervention, and follow-up for all children within the school setting." The goal of our district health team is to address the health needs and well-being of our student population, and to do all we can to promote their educational success. Our district has created a policy that grants permission to administer OTC medications with only parental consent required. This does include pain relievers, but also includes many other simple things; cough drops, antibiotic ointments, anti-itch creams, antacids, and first-aid cleansers for abrasions.

We are professional Registered Nurses, who use many interventions available to help meet student health needs. However, we firmly believe that the use of OTC medications is an acceptable intervention and benefit for students, who present with adequate reason or need for their use. For instance, a child has a toothache, for whatever reason: a loose tooth, orthodontic pain, maybe needs dental work done. If they need a referral, we work to get them one. During the time this child has to wait for relief from their pain, they are not receiving an education. They cannot get an education being at home, nor will they get one being at school when they are in pain. As nurses, we can help with simple administration of an OTC pain reliever. Our current law states that a physician's order is not required for OTC medication administration, and policies requiring that order, is not in the best interest of all students. It is also a heavy burden of cost and time on parents and the healthcare system.

There are definite disparities that exist in between the "haves," those that have access to health care and a primary care physician willing to provide an order, or have the transportation and ability to leave a job (without the fear of losing it) to administer an OTC medication to their child. Then there are the "have-nots," those who have no insurance, thus often do not have a primary care physician, have no transportation, or fear losing their job for taking off work. This results in providing special services for some, but not all students.

With SB51, each district still maintains the right to design their own policies, which would address and meet their individual needs and concerns. This bill simply removes the right of a school district to force parents into getting a physician's order for OTC medications. In the opinion of our district, this mode of thinking is just disrespectful and insulting; it implies that a parent is incapable of making these decisions without having to consult a physician first. They are available OTC for a reason, and it is not so a physician has to prescribe their use.

We see ourselves as advocates for all students, and with these students come families. We have a responsibility to encourage families to have a primary care physician, and we work to assist those who do not. However, on any given day, a school nurse may be a family's only access to healthcare. As unfortunate as this is, it is the reality of our society. School nurses have to be willing to make changes and adopt new policies to help meet ever-changing student and family needs. It is for this reason, that the approval of SB51 is so important.

Sincerely,

Monica Williams, RN

Jaci Payne, RN

Jonya S. Quisenberry, RN

Jessie Henderson, R.N.

USD 402 Augusta Health Services Dept. • 2345 Greyhound Drive • Augusta, KS 67010 • 316-775-5484

*Senate Education
2-15-11
Attachment 4*

I am here today in two roles, one as parent in the Blue Valley School District, the other as a teacher, to encourage you to pass Senate Bill 51. Being a parent and teacher I am concerned about the pain, discomfort, or minor medical needs of all students during the school day.

Blue Valley School District is one of the few school districts in Kansas that has a successful OTC policy in place. As a parent, I can say my children have benefited from the OTC medication policy. My son was once treated for a migraine headache by receiving acetaminophen and a caffeinated beverage. He spent 30 minutes in the school's health center then he returned to classes to continue his learning. If this policy had not been in place, he would have either spent the day in pain or left school, both impacting the time he received meaningful instruction. Another son was treated with an anti-itch cream when he had a bug bite. The incessant scratching was not only distracting him from fully engaging in instruction, it also annoyed and distracted the students around him. Neither me or my husband or I had to leave work to apply the anti-itch cream, that after applied, gave him immediate relief and allowed him to concentrate on the instruction that was being given. In both of these cases, the attending nurse called to inform me of the medication used. These are just a couple my many examples that I can share that confirms how successful and beneficial OTC medication policies have on our students.

Although it would be ideal to have a registered nurse in every school health center, I trust the highly educated staff in schools to follow protocols established by

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Attachment 5

each school district when a medication must be dispensed must be by someone other than a registered nurse. For example, a very simple protocol for school without a registered nurse present could be to require parental notification of symptoms before the OTC medication is dispensed.

As a teacher I can tell you that there have been numerous times when students have missed critical instruction because of pain that could be alleviated, coughs that could be quieted, or intestinal gas lessened. The time it takes for a parent to get to the school's health center varies. During skill reviews a week prior to the MAP test, one of my students had to wait more than 2 hours for their parent to arrive to administer a pain reliever. Although we made AYP that year, it could have impacted the score this student received. Every instructional moment missed makes a difference.

This bill just makes sense to me as a parent and a teacher. This bill impacts the well being of and the education of our students. Please support Senate Bill 51.

Thank you.

Debra Cullom
Leawood, Kansas
913.491.4282

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

Testimony before the
Senate Committee on Education
on

Testimony on **SB 51** – Dispensing Medicine to Students

by

Mark Tallman, Associate Executive Director for Advocacy
Kansas Association of School Boards

February 14, 2011

Madam Chairman, Members of the Committee,

Thank you for the opportunity to present testimony on **SB 51**. The bill allows locally-elected school boards to adopt a policy allowing the district to dispense over the counter medication to students. We believe this could help clear up the confusion that has existed for years over the authority to dispense such medication to students.

KASB policies support local control over school district policies and our legal and educational staff experts believe this bill will help students get the over the counter medicine they need and help keep them at school when they need to be. It may also help in improving attendance and graduation rates for school districts. This will help those school districts who do not have a nurse or have had to reduce nursing positions due to budget reductions.

We would recommend an amendment to add the “good faith immunity” language for school employees who follow the board policy. This is the same language used in the student self administration of medicine statute in K.S.A. 72-8252(d). “A school district, and its officers, employees and agents which authorize the dispensing of over the counter medications in compliance with the provisions of this section shall not be held liable in any action for damage, injury or death resulting directly or indirectly from the self-administration of medication.”

Thank you for your consideration.

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Attachment 6



TESTIMONY SB 51
SENATE COMMITTEE ON EDUCATION

The Kansas Chapter of the American Academy of Pediatrics represents over 90% of the practicing pediatricians in the state. We are offering testimony in support of Senate Bill 51.

Senate Bill 51 would allow schools to give students over the counter medications in standard doses as long as written permission has been obtained from a parent. It would not require a physicians written consent as some districts now do. Primary Care physicians are inundated with "paperwork". More and more of our time is spent filling out forms, many of which have little or no direct effect on patient care. It rankles physicians to have to "order" medications for a school when the the parent gives the same medication at home without such authorization. To the physician this is just another form we have to fill out which is not needed. There are school districts in the state that don't require such authorization and they seem to function well.

Another factor to consider is the financial impact of requiring a physicians' signature on OTC medications. We are not suggesting that this has any significant impact on health care costs, but there is a cost to have physicians fill out these forms. This cost is either charged directly to the parent or eventually passed on in overhead costs.

As long as the medications are in the properly labeled containers, we see no reason that a physician has to authorize the use of these medications.

Respectfully,

Dennis M. Cooley, MD, FAAP
President
Kansas Chapter, American Academy of Pediatrics

Chris Steege
Executive Director
Kansas Chapter, American Academy of Pediatrics

Senator Jean Schodorf, Chair
Senator John Vratil
Senator Anthony Hensley
Senator Steve Abrams
Senator Jeff King
Senator Bob Marshall
Senator Tim Owens
Senator Allen Schmidt
Senator Ruth Teichman
Senator Dwayne Umbarger
Senator Susan Wagle

Senate Bill 51

Madam Chair, members of the committee, thank you for the opportunity to testify today in opposition of Senate Bill 51. I am here today of my own volition and am representing no one group in particular.

I am a former school nurse from the Wichita area, having worked as a full time employee and substitute for the past ten years. I have also worked as a substitute school nurse for various other school districts. At this time, however, I am retired.

As with any bill, policy or decision, it is in the best interest of all involved parties to weigh the benefits versus the risks involved. While SB51 has good intentions, there are flaws that need to be considered.

Firstly, what exactly is this bill trying to address and for whom? Of the two hundred and ninety three school districts in Kansas, there are probably no two districts with the exact same over the counter (OTC) medication policy. I do know that there are school districts that already allow for the provisions in SB51. There are also school districts that have policies and protocols written by physician medical directors. As well, there are districts that only allow these medications with a direct physician order. Each of these school districts has developed their policy by assessing the benefit/risk ratio for their student population. This bill does not allow that type of local control to continue for school districts. What works in one school district may be totally inappropriate in others.

Secondly, it is my understanding that proponents of SB51 feel that current policy, particularly in the Wichita school district, is discriminatory towards children with no medical home. Proponents have cited lack of physician availability, lack of transportation, parent work issues, etc., as reasons why children don't have a medical

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2-15-11
Attachment 8

home. What a wonderful opportunity for a school to build a relationship of trust and cooperation by helping families access community resources. When a parent requests an OTC medication be administered at school, it provides a perfect occasion to find out if the student has a medical home, and if not, help them to find one. Schools have nurses, social workers, counselors and teachers that either know how to access these resources or find someone who does know. I have personally provided transportation for families to and from medical clinics and facilities countless times. Not having a medical home cannot be a reason for SB 51 to be approved.

Thirdly, OTC medications used inappropriately can be just as dangerous as prescription medications. As written, SB 51 does not address this safety issue. Over the counter preparations do not include just Tylenol (acetaminophen) or Motrin (Ibuprofen). There are tens of thousands of these kinds of drugs available, including herbal supplements, vitamins, cold remedies, and even the "day after pill." Many of these medicines have not been tested in children and are not recommended to be used in children. However, there are parents who choose to believe that their use is appropriate. I've had parents bring herbs and supplements to school to treat ADHD and depression, without physician knowledge and against physician recommendation. With the advent of the internet, everyone has become an expert on the treatment of medical concerns. Many of the therapies that are advertised are available without prescription and have no scientific background to support them. A good example is the use of kerosene on children's scalps for the treatment of lice. This dangerous practice persists despite the wealth of knowledge surrounding the danger associated with such treatment. With the rise of OTC medication abuse among teenagers, we are finding out more about the risks and the potential for harm these types of drugs hold for children. Even a seemingly benign medication such as Tylenol is not safe in all situations, and is frequently the cause of liver damage and/or failure. In fact, the FDA is currently considering changes in how (OTC) ephedrine based medications are dispensed. Senate Bill 51 does not specify what kinds of OTC medication could be administered with parent permission only, despite potential risk to the child.

Lastly, SB51 does not acknowledge the unique needs of every school district in the State of Kansas. Student health needs in a district are very unique and cannot be met by a state mandate. For example, the special education population in Wichita is the largest in the state of Kansas. Special education students with multiple physical and mental disabilities have a higher incidence of complicated health concerns and are generally followed by a team of specialists who evaluate and coordinate their health needs. Because of the numerous medications they may already take, a physician is the expert in knowing if it is safe to give an OTC medication also. Passing a law for parent directed OTC medication administration may prevent these children from having their team of healthcare providers included in these decisions. School districts do not always have the in depth health information about a student's disabilities as their health care providers do. Also, all school districts do not have a nurse in their schools full time. This brings up a number of worries. Senate Bill 51 does not address WHO will dispense these

medications? Will it be someone with medical knowledge or a clerk in an office? HOW will the decision to give the medication be made? WHO will be responsible for being knowledgeable about a student's current or past health concerns when making the choice to give Tylenol or Motrin? WILL districts be able to refuse to give a medication if it is not recommended for children? If you have ever been in the hospital, you know that any medication you take, must have been physician ordered to be administered. This includes Tylenol and Motrin. Why would we do any less for the children in our state while they are in school?

School districts are struggling across the state with issues of great magnitude, but their overall mission remains the same: to build relationships with students and families, and to help children reach their highest potential. I recently attended the funeral of a former student who died from cancer. She was six years old when she was diagnosed with kidney cancer. It spread to her lungs and she was nine when she died. As her school nurse, I was deeply involved with the family from the time she was diagnosed and throughout her treatment. I worked closely with her mother in educating her about her daughter's cancer, how it manifested, her expectations for chemotherapy, the devastating side effects and the decision to stop treatment. We worked side by side to manage this child's many infections and tried together to keep her in school as much as possible. I visited this family the day before La'Nasha passed away, and on the wall of her bedroom above her bed, was the sparkly pink cape I had made for her to wear during her chemotherapy treatments. I had built a relationship with this family and made a connection. This is an example of the untold story in schools. There are nurses, counselors, social workers, speech pathologists and teachers across this state, who have the ability to help families access resources so that NO child is left without a medical home or physician provider. We need to do the safest thing for our children, not the most convenient.

I'd like to conclude by again thanking you for this opportunity, and encouraging you to recognize and value the importance of maintaining local school district control of this issue. Senate Bill 51 will take this local control away. I would also like to thank you for your service to our state.

February 15, 2011

To the Honorable Senator Schodorf and members of the Senate Committee on Education.

Comments prepared by Cindy Galemore RN, MSED, NCSN, Director of Health Services for Olathe District Schools, related to Senate Bill No. 51, AN ACT concerning school districts; relating to the dispensing of medication.

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

Section 1. (a) Any policy adopted by a school district regarding the dispensing of medication to students enrolled in such school district shall comply with the provisions of this section. Such policy shall provide that a student may be given over-the-counter medication in the recommended dosage provided that the school has obtained written consent from the parent or legal guardian of the student authorizing the dispensing of such medication to the student.

(b) Nothing in this section shall be construed to require a health care provider's written authorization prior to dispensing over-the-counter medication in accordance with subsection (a).

(c) Nothing in this section shall be construed to require a school nurse or other school employee to dispense over-the-counter medication other than as recommended on the label of the package containing such over-the-counter medication, or to dispense any prescription medication without first obtaining written authorization from a health care provider.

(d) The board of education of any school district that has adopted a policy subject to the provisions of this section, may adopt any additional policies pursuant to subsection (e) of K.S.A. 72-8205, and amendments thereto, which the board deems necessary to implement the requirements of this section.

(e) As used in this section:

(1) "Health care provider" means:

(A) A physician licensed to practice medicine and surgery;

*(B) an advanced registered nurse practitioner issued a certificate of qualification
11rs036011rs0360 - 2 - pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs as provided by K.S.A. 65-1130, and amendments thereto;*

(C) a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto; or

(D) a dentist licensed to practice dentistry.

(2) "Over-the-counter medication" means any drug available for purchase without a prescription.

(3) "School" means any public or accredited nonpublic school.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Concerns:

1. Olathe has had an OTC policy for many years, and the policy has been revised on a regular basis to adjust to changing needs. Initially, we required that a physician order be obtained for any and all medications administered at school. As more and more high school students came to and from school in their own vehicles, a policy was implemented for high schools to avoid students leaving school in their car to go home and retrieve an OTC med. In subsequent years, as physicians from across the metropolitan area voiced a reluctance to write orders for OTC meds, we made changes to our policy to allow the stocking of ibuprofen and acetaminophen in the health room administered only by the registered professional nurse upon consultation with the parent when it is believed it is truly warranted. Our OTC policy encourages one-to-one education with the student and parent about the appropriate use of medication. Unnecessary use of medication is strongly discouraged.

Local school districts should maintain authority over policies for management of over-the-counter medications based on staffing ratios, safety of students, ability to manage, conversations with local medical providers, etc. The state should not mandate a school district to adopt a specified policy concerning over-the-counter meds. Physician direction is recommended as best practice by the National Association of School Nurses and in the recently revised *Guidelines for Medication Administration In Kansas Schools* posted by the Kansas Department of Health and Environment (2010). (See end of document for excerpts from both these resources.)

2. These same KDHE guidelines caution against administering any herbal, non-regulated OTC substance without a physician order. The definition of OTC given later in this bill seems to include herbal substances in the definition of OTC. (*"Over-the-counter medication" means any drug available for purchase without a prescription.*)

3. The above bill seems to suggest that administering OTCs is without potential for harm. A recent article in *Academic Pediatrics* by Wilson, K.M., et al (2010) discusses that OTC's are not benign, and that doses of acetaminophen as low as 8 to 12 extra-strength capsules daily have caused liver damage. Moreover, there are multiple drugs that contain acetaminophen with failure of consumers to recognize this ingredient, particularly if many of the schools that must implement this law do so without a professional registered nurse in every building full time. A survey being conducted by the Kansas School Nurse Organization this current school year has identified that 42.5% (126 out of 294 school districts do not employ a full time nurse). Secondly, many of the nurses that are full time cover more than one building.

4. Passage of this law is not without costs to districts. The law would greatly increase school staff time needed to manage the OTC requests that would be sent by parents including considerations for where to securely store the medication, checking the medications for expiration dates and ensuring they were sent to school properly labeled in their original containers, documenting when medication is administered, touching base with parents each time the medication is administered, etc. Managing physician ordered medications provides challenge enough. For example, in sampling one of our 34 elementary schools, currently there are 18 daily medications and 26 prn medications ordered. Further, there are costs to schools if the decision is made by the district to provide the most commonly requested OTC medications from its budget in order to avoid having to find storage for the many bottles that would be sent from home.

5. Like the district I work in, many districts have determined that having a policy that allows limited OTC administration with parental consent is manageable. The above legislation appears to require those districts to now allow any and all OTC and herbal medications, instead of limiting to the most frequent OTC that assist with the majority of health needs. Thus, this law would also impose a mandate on school districts, patrons, and local medical communities who have an OTC policy in place and are satisfied with their current policies.

6. A licensed health professional has the right to refuse to administer any medication based on concerns they might have regarding potential side effects, etc. of medication. The above language appears to require a school nurse and other school employee to administer a medication if the parent has requested it be administered, even if against the school employee's or licensed health professional's better judgment.

In summary, Olathe Public Schools has a policy that allows very limited use of OTC's at the elementary level, and this policy has served us very well for several years. In looking back over two years of patron complaints concerning health issues that reach my office, in a district of over 28,000 students, none have been concerning our OTC policy.

Document Excerpts:

1. According to the National Association of School Nurses position statement on Medication Administration in Schools,

The school nurse has the educational background, knowledge, and licensure that provide the unique qualifications to direct the administration of medications in the school

setting. As the school staff member most involved in this issue the school nurse must have input into school district policies and procedures relating to medication administration. These policies should be developed considering the safety of all students and staff. School nurses may be able to increase resources available to them by developing partnerships with local pharmacists and/or health care providers. At the state level, the school nurse should be an integral part of the legislative process before any changes or modifications to a state's current laws are addressed.

The position statement goes on to conclude with the following:

It is the position of the National Association of School Nurses that school districts develop policies and procedures to address medication administration in accordance with federal and state laws and guidelines. NASN recommends that the school nurse, as well as to other school district personnel, parents, school medical advisors, pharmacists, and legal counsel, be included in policy development to ensure that the numerous issues surrounding medication administration are addressed. Confidentiality must be a priority for the school nurse and any designees that administer medications to students in the school setting.

The school nurse can administer medication safely and effectively under the following guidelines, at a minimum:

- Adherence to school policies, school nurse standards of practice, state nurse practice acts and state laws governing these practices.
- The medication is in the original container if over-the-counter (OTC) or in a properly labeled prescription container, subject to state Board of Pharmacy regulations. In some states, a licensed healthcare provider may package and label the medication.
- Information on the container must include the student's name, the name of the drug, dosage amount, route of administration, the time interval of the dose, and the name of the prescribing licensed healthcare provider.
- The parent/guardian must request in writing that the medication be administered at school.
- The school nurse, based on nursing assessment, determines that the medication can be given at school.
- The administration of medication in no way violates nursing protocols or standing orders.
- The school nurse is aware of and has access to current reliable information regarding the safe use of the medication including side effects and toxicity, possible drug interactions, adverse effects and expected outcomes.
- Medications are stored in a locked cabinet.
- Procedures must be in place for receiving, administration of, and accountability for all medications in the school setting.

The implementation of appropriate guidelines will assist the school nurse in conjunction with the local education agency in meeting their responsibility to foster the protection of the health, safety, and welfare of the students, school personnel, and general public during the administration of medications in the school setting.

National Association of School Nurses (2003). POSITION STATEMENT. *Medication Administration in the School Setting*. Available at <http://www.nasn.org/Default.aspx?tabid=230>

2. KDHE. **Bureau of Family Health, Children and Families Section (2010)**. Guidelines for Medication Administration In Kansas Schools. Available at <http://www.kdheks.gov/c-f/index.html>, page 14-15.

Nonprescription or Over-the-Counter (OTC) Medication and Other Homeopathic Remedies

It is recommended that written authorization from a primary care provider or specialist accompany nonprescription over-the-counter (OTC) medications, natural and homeopathic remedies, as well as prescription medications, in order to ensure continuity of care and to prevent unintended medication interactions. OTC medications have therapeutic benefits, as well as risk of potential side effects, and carry the potential for great harm if misused or abused. At the same time it is understood that students may symptomatically benefit from appropriate use of OTC medications and that their use may facilitate a student's return to class and remove temporary barriers to learning. Some primary care providers or specialists may determine that the use of nonprescription medications is a parental/legal guardian decision and not a physician decision, and may be unwilling to "authorize" OTC medications in the schools since they have no control over which medications are actually purchased for use. Consequently, it may sometimes be in the best interest of the student for the licensed professional registered nurse to administer OTC medications in the original container with standardized, age/weight appropriate dosing information at parent/legal guardian request, for a specific time limited minor illness (e.g. cough drops, for colds, Ibuprofen for muscle strain) or for intermittent conditions (e.g. Acetaminophen or non-steroidal anti-inflammatory drugs for menstrual cramps, hydrocortisone ointment for insect bites, etc).

A written request signed by the parent/legal guardian must accompany the medication and include:

- a. The name of the medication
- b. The medication dose
- c. The time for administration of the medication
- d. The reason for the medication
- e. A statement relieving the school of any responsibility for the benefits or consequences of the medication when it is "parent/legal guardian prescribed" and acknowledging that the school bears no responsibility for ensuring the medication is administered except when the student requests the medication. In this instance, documentation of medication administration by the licensed professional registered nurse or UAP delegated to administer OTC medication when requested must be completed.
- f. OTC medication must be brought to school in the original manufacturer container/package with all labels intact. Deviations from label directions will require a written provider order.

g. The school should retain the request for at least as long as the medication is used at school. It is preferable that the request remains part of the student's permanent health record. The school must reserve the right to limit the duration of parent/legal guardian prescribed medications and to require primary care provider or specialist authorization for continued use.

*Because the formulation of herbal, natural and homeopathic remedies is unregulated, their potential for harm is great in a school setting where a student's complete medical history and medication history may not be known. These medications/remedies should not be administered at school without primary care provider or specialist authorization. Even with proper authorization, the school must take into consideration the risk inherent to student safety in administering a product that lacks published data about its safety, efficacy, and dosages for children. A position statement from the National Association of School Nurses (NASN) called *Alternative Medicine Use in the School Setting* can be found at <http://www.nasn.org/Default.aspx?tabid=199>.*



**Senate Education Committee
Senator Schodorf, Chair**

S.B. 51 – distribution of certain medication

*Submitted by Diane Gjerstad
Wichita Public Schools*

February 15, 2011

Madame Chair and members of the Committee:

Thank you for the opportunity to provide comments on SB 51. The bill would require all school districts to adopt a policy requiring school personnel to administer any medication, with parental approval, brought by the student to school.

The language of this bill is very broad, a concern we have shared with the sponsor who has patiently listened to our concerns. School districts across the state have many different policies on over the counter medication, policies which the Boards of Education have adopted to best fit the needs of their students and families. We believe one statewide mandate does not best provide the safe guards needed for students.

We are also concerned about the staffing differences among districts and buildings within districts. Not all schools have a full-time school nurse on staff to adequately monitor distribution of such a broad category of medication. Nor can we ignore the possible impact of the Governor's proposed reductions for education funding in FY 12. An additional \$232 cut per pupil, if enacted, will cause districts to examine all staffing – including student support personnel.

Last fall a group of community members presented their concerns during a Wichita School Board meeting. The Superintendent and his administration are carefully examining the district's current practice, the concerns raised by the group and practices across the state. The administration will be reviewing findings and discussing those with the Board of Education in the future. However, we believe the final policy and practice is best left to the locally elected Board.

Madame Chair and members of the committee, we would ask you not advance this bill and allow locally elected Boards of Education to craft policy which best reflects the needs of their distinct populations.

*Senate Education
2-15-11
Attachment 10*



Testimony concerning SB 51
Committee on Education
Presented by Debra Billingsley
On behalf of
The Kansas Board of Pharmacy
February 15, 2011

Madam Chair, Members of the Committee:

My name is Debra Billingsley and I am the Executive Secretary of the Kansas State Board of Pharmacy. The Board is created by statute and is comprised of seven members, each of whom is appointed by the Governor. Of the seven, six are licensed pharmacists and one is a member of the general public. They are charged with protecting the health, safety and welfare of the citizens of Kansas and to educate and promote the understanding of pharmacy practices in Kansas.

The Board of Pharmacy is neutral on SB 51. However, the Board would recommend an amendment to Line 6, Line 11, Line 13, Line 16, and Line 18 where the word "dispense" is used and change it to "administer". The word "dispense" is a term of art used in the Pharmacy Act and is defined as the "means to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner." K.S.A. 65-1626d defines "dispenser" as a practitioner or pharmacist who dispenses prescription medication. The bill's intent is to permit administration of over the counter and prescription medications to students upon approval of the parent or guardian. Therefore, the Board of Pharmacy would suggest that the term "dispense" be removed and that a more appropriate designation be given.

Thank you for permitting me to provide testimony.

Senate Education
2-15-11
Attachment 11