

Approved: January 25, 2005  
Date

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 1:33 P.M. on January 20, 2005 in Room 526-S of the Capitol.

Committee members absent:

Representative Mike Kiegerl- excused  
Representative Patricia Kilpatrick- excused

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department  
Mary Galligan, Kansas Legislative Research Department  
Rena Jefferies, Revisor of Statutes' Office  
Gary Deeter, Committee Secretary

Conferees appearing before the committee:

Mark Stafford, General Counsel, Kansas Board of Healing Arts

Others attending:

See attached list.

The Chair announced that the committee will meet for an informal lunch on Monday.

By motion, second and unanimous vote, the minutes for January 18 and January 19 will be considered approved as printed if no corrections are given to the secretary by noon on January 21.

The Chair welcomed Mark Stafford, General Counsel for the Kansas Board of Healing Arts, who gave an overview of the charge and activities of the Board. ([Attachment 1](#)) He said he would give some brief comments about what the Board is, what it does, and how it does it, noting that the Board is not a cabinet-level agency; its fifteen members (including 5 medical doctors, 3 doctors of osteopathy, and 3 chiropractors) are appointed by the Governor. He said currently the Board grants licenses to 18,000+ individuals who meet pre-established qualifications, and, when the Radiologic Technologists are added in 2006, the number will total nearly 22,000.

Besides the licensing division, Mr. Stafford said the disciplinary division investigates complaints against professionals over which the board has oversight, noting that all investigations follow a legal due-process model, which includes gathering evidence and conducting a hearing; he noted that the Board has an array of responses to an investigation: dismissing the complaint, revoking, suspending or limiting a license.

Mr. Stafford answered a number of members' questions:

- Kansas' regulations and statutes in the arena of healing arts are 99% parallel to other states; in fact, the national Model Act is based on Kansas law.

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- The Board regulates the licensee, but does not regulate the facilities. Thus an unclean workplace is not under the purview of the Board.
- Competence of a licensee is not based on a set of objective regulations, but upon a more subjective “standard of care” as defined by the licensee’s peers.
- If a complaint were lodged regarding a lack of cleanliness in a hospital, the Kansas Department of Health and Environment would investigate using an objective set of regulations; however, there is no direct oversight for a physician’s office or workplace, and the Board’s oversight would be governed by a standard of care, not a set of regulations. If a Board investigator discovers violations applicable to other agencies, those violations are shared with the appropriate agency.
- Investigators employ guidelines recommended by the Kansas Medical Society.
- The lapse of time for an investigation of a complaint against a licensee is determined by 4 categories: emergency, priority, important, technical. The extent of an investigation can range from a few days to a year, and, occasionally for difficult cases, 2-3 years. Guidelines used by district courts regarding response times have been adopted by Board investigators; however, the ideal response time of a few days is often impossible to meet because of caseloads and the complexity of cases. It is not unusual for a non-emergency investigation to take 9 months to a year.
- During an investigation of a complaint, the licensee under investigation may still have his/her license renewed.
- A physician’s staff is under his or her jurisdiction; training, conduct, and competence are the physician’s responsibility.
- The Board deals with about 2000 cases each year; in 2004, 537 cases were continued, 523 were opened, and 341 were closed. The Board has 5 full-time investigators, 1.5 contract investigators, no dedicated staff support, and takes about 60 disciplinary actions each year.

To allow the Committee to consider bill introductions, the Chair asked Mr. Stafford to return to complete his testimony at a later time.

Representative Don Hill requested that the Committee sponsor three bills of interest to the Kansas Pharmacy Board:

- A bill repealing obsolete pharmacy statutes;
- A bill broadening the authority of the Pharmacy Board, allowing the Board to accept, limit, suspend, revoke, or deny registration to pharmacy technicians;
- A bill allowing pharmacists to fill on an emergency basis a prescription which has expired.

A motion was made, seconded, and passed to accept all three bills as committee bills.

Representative Bob Bethell, on behalf of Representative Judy Showalter, requested the Committee sponsor a bill extending the length of time an Emergency Medical Technician can make an application in Kansas from 1 to 2 years. He said the bill was requested by David Lake, Administrator, Kansas Board of Emergency Services. A motion and second was made to sponsor the bill. The motion passed.

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Representative Bethell also requested the Committee sponsor two other bills:

- A bill shifting the relation of the Kansas Long-Term Care Ombudsman from Kansas Department of Health and Environment to the Kansas Department on Aging, a technical change since long-term care inspections are now under the authority of the Department on Aging;
- A bill exempting a nursing facility from responsibility for unemployment insurance if an employee convicted of a felony is terminated. Motions and seconds were made to sponsor both bills; the motions passed.

The meeting was adjourn at 2:59 p.m. The next meeting is scheduled for Tuesday, January 25.