

Approved: February 20, 2012

MINUTES OF THE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman Vicki Schmidt at 1:30 p.m. on February 7, 2012, in Room 546-S of the Capitol.

All members were present.

Committee staff present:

Nobuko Folmsbee, Office of the Revisor of Statutes
Renaë Jefferies, Office of the Revisor of Statutes
Iraida Orr, Kansas Legislative Research Department
Melissa Calderwood, Legislative Research Department
Carolyn Long, Committee Assistant

Conferees appearing before the committee:

Christina Morris, Director, KS Prescription Monitoring Program, KS Board of Pharmacy
Jerry Slaughter, Kansas Medical Society
Bob Williams, Kansas Association of Osteopathic Medicine
Kathleen Lipper, State Board of Healing Arts
Dr. Jerry Farley, President, Washburn University

Others attending:

See attached list.

The Chair opened the meeting by calling for final action on **SB 331---Cosmetology; salon and clinic license renewal.** *It was moved by Senator Kelly , seconded by Senator Kelsey that **SB 331** be moved out favorably as technically amended. Motion carried.*

The chair opened the hearing on **SB 327—prescription drug monitoring.** Staff noted that this legislation would allow the Board of Pharmacy to apply for and accept grants, donations, gifts, or bequests made to the Board for furthering any phase of the Prescription Monitoring Program. The Board would be required to remit these funds to the State Treasurer to be credited to the Non-Federal Gifts and Grants Fund. It would also require the Board to provide program data to the Kansas department of Health and Environment; persons authorized to prescribe or dispense scheduled substances and drugs of concern, when an individual is obtaining prescriptions in a manner that appears to be misuse, abuse, or diversion of scheduled substances or drugs of concern; and medical examiners, coroners or other persons authorized under law to investigate or determine causes of death.

The penalty for any person found guilty of knowingly, and without authorization, obtaining or attempting to obtain prescription monitoring information would be a severity level 10, nonperson felony.

CONTINUATION SHEET

The minutes of the Public Health and Welfare Committee at 1:30 p.m. on February 7, 2012, in Room 546-S of the Capitol.

The chair recognized Christina Morris, Director of the Kansas Prescription Monitoring Program (PMP), housed in the Kansas State Board of Pharmacy. Originally the amendments in **SB 327** were intended to clean up language regarding the dissolution of the Kansas Health Policy Authority to incorporate new funding language that would help in creating a sustainable funding source for the Kansas PMP. The first amendment on page two allows acceptance of private grant funding.

Language was also added reflecting the Prescription Monitoring Program Model Act, created by the Alliance of States with Prescription Monitoring Programs (Alliance) and the Prescription Drug Monitoring Center of Excellence that was amended in 2010. The Model Act is a consensus document reflecting the best practices of states that currently run PMPs. Kansas used the Model Act in 2008 for the original PMP legislation. The first amendment that reflects the Model Act allows two different groups to access the K-TRACS data. It allows the unsolicited reports to be sent to physicians and dispensers when they have a patient appear to be misusing, abusing, or diverting substances. The second new group having access authorizes medical examiners and others who are authorized by law to investigate or determine cause of death to access the data. Currently only providers who can prescribe controlled substances and have a DEA or NPI number are authorized to access the system. The last amendment was added to assure that penalties can be assessed against persons who obtain or attempt to obtain prescription or any other information by fraud and deceit from the prescription monitoring program or from a person authorized to have such information (Attachment #1).

Jerry Slaughter, representing the Kansas Medical Society (KMS), stated that the intent of PMP legislation was to help states combat the growing problem of illegal diversion and use/overuse of controlled substances. The PMP is essentially a database that contains every controlled substances prescription written and dispensed in Kansas. The proposed changes contained in **SB 327** are mostly technical in nature.

KMS would like to suggest another amendment that would be designed to make it possible for the PMP, in appropriate cases, to initiate a report to a licensing agency or law enforcement agency when the PMP has reason to believe that someone is prescribing or dispensing in a manner that is unlawful or inconsistent with professional standards of care, or that an individual is obtaining controlled substances in violation of state or federal law. It establishes a review process that the PMP Advisory Committee would carry out in order to determine if a report authorized by the subsection is warranted.

KMS believes that the amendments, with the addition of their new amendment, would significantly strengthen the prescription monitoring program (Attachment #2).

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Mr. Slaughter introduced Dr. Joe Davidson, who practices family medicine in Wichita. Dr. Davidson said he was in favor of a peer-to-peer review. He also expressed that in his opinion, some patients don't need more pain medication but an intervention program.

Following a question from Senator Reitz to Christina Morris regarding educational programs for pain management, Ms Morris said they receive between \$350,000 and \$400,000 in grants, of which one-quarter goes to their software management company, one-quarter to personnel and one-half to education. They have federal funding thru October 12, 2012 and are working on extending that funding.

Mr. Slaughter said that they are hopeful that any costs incurred in his amendment would not involve state general funds but would be absorbed through the Health Information Exchange.

The Chair recognized Bob Williams, Executive Director of the Kansas Association of Osteopathic Medicine. Mr. Williams noted that his organization also supports the amendment offered by the Kansas Medical Society in that the amendment would require an advisory committee, comprised of prescribers and dispensers, to review cases where there might be a violation of the controlled substance law or a standard of care prior to reporting the individual to law enforcement. The intent of the amendment is to assure there was indeed a violation of the controlled substance law prior to reporting to law enforcement (Attachment #3).

Kathleen Lippert, Executive Director, Kansas State Board of Healing Arts (KSBHA), stated that currently KSHBA has the statutory authority to provide peer review for all standard-of-care cases. Pursuant to K.S.A. 65o-4925(a)(4)(e), KSBHA is prohibited from using peer review records exclusively to prove a violation of standard-of-care. Specifically, KSBHA must prove its findings with independently obtained testimony or records which shall be presented as part of the disciplinary proceeding. The statute provides many important protections and due process for physicians and other licensees. While adverse privileging action must be reported to KSBHA, it is only reported at the conclusion of their peer review process. However, the underlying conduct may have occurred more than a year before the report and therefore public protection is delayed (Attachment #4).

There being no further discussion, the hearing on **SB 327** was closed.

The Chair then opened the hearing on **HB 2490—Doctor of nursing practice degrees at Washburn University**. Staff said that this bill would add Washburn University's Doctor of Nursing Practice to the list of programs eligible to receive state grants from the State General Fund.

Dr. Jerry Farley, President, Washburn University said that he was proposing modifications to the statutory language describing Washburn University and allow Washburn University and the

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School of Nursing the opportunity to continue its educational mission at the graduate level. Since 2005 Washburn has offered a Master's degree for nurses in northeastern Kansas. The program has three tracks, including adult nurse practitioner, family nurse practitioner and clinical nurse leader. This request reflects the changing educational standards required by the national accreditation organization. Presently, the University of Kansas and Wichita State University offer the DNP degree. Upon approval, Washburn plans to admit students to a MSN to DNP program in the Fall of 2012, with plans to begin a BSN to DNP program by 2015. The five-year projection is to have 125 DNP students enrolled in the two curricular tracks by 2015 (Attachment #5).

There being no further discussion, the hearing on **HB 2490** was closed.

The Chair then opened **HB 2490—Doctor of nursing practice degrees at Washburn University** for final action. *It was moved by Senator Kelly, seconded by Senator Brungardt that **HB 2490** be moved out favorably and placed on the consent calendar. Motion carried.*

The next meeting is scheduled for February 8, 2012.

The meeting adjourned at 2:25 p.m.