

Approved: May 10, 2002
Date

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE.

The meeting was called to order by Chairperson Senator Susan Wagle at 1:30 p.m. on February 26, 2002 in Room 231-N of the Capitol.

All members were present except: Ms. Emalene Correll, Kansas Legislative Research Department

Committee staff present: Ms. Lisa Montgomery, Revisor of Statutes
Ms. Margaret Cianciarulo, Administrative Assistant

Conferees appearing before the committee: Representative Welshimer
Mr. John Federico,
KS Association of Naturopathic Physicians
Dr. Jane Murray, Family Physician
Dr. Medi Khosh, N. D.
Ms. Kathy Elston, via Christi Integrative Center Manager
Mr. Mike McCulley, Wichita Consumer
Mr. Terry Miken, Lawrence Consumer
Dr. Jeanne Driscoe, M.D.,
Dept. Of Gynecology & Obstetrics at KU Med Cntr.
Mr. Keith R. Landis, Committee on Publication of Kansas

Others attending: See attached guest list.

Hearing on SB610 - an act concerning naturopathy; providing for the licensure and regulation of practitioners thereof; providing for administration by the Board of Healing Arts

Upon calling the meeting, Chairperson Susan Wagle announced they would be continuing their hearing on the above bill and would be hearing from proponents, the first being Representative Welshimer from Wichita.

Representative Welshimer stated that she was not here to repeat the qualifications of naturopathic physicians, but to offer some documented facts that are separated into three reports:

- 1) Health Care In Crisis - which contains facts from the media, newspapers, and the World Health Organization 2000 World Health Report (which ranks Kansas at 72nd for performance level of health, cites us for not having enough choices and the U.S. ranked as the most costly of all);
- 2) Kansas' Budget Crisis - had the legislative research compiled information showing what each agency spends for health care, and in addition, included the Kansas health care plan and dollar figures needed from state funds to meet health-care obligations as projected 12% yearly increase; and
- 3) A Solution for Kansas' Health Crises - studies whereby industries have reduced their health care costs:
 - A) a 1,400 -employee- Canadian corporation, called Husky, shares the results of their integrated in-house clinic having saved \$4.1 million per year for almost 3 years using naturopathic medicine;
 - B) a health plan management vendor in the Chicago area called Alternative Medicine, Inc. (founded by an M.D. and using prevention practitioners as primary care providers has reduced hospitalizations, surgeries, prescriptions, and mental health, by more that 50% for a major insurer in Illinois.

A copy of her testimony is (Attachment 1) attached hereto and incorporated into the Minutes by reference.

The next proponent to come before the Committee was Mr. John Federico, on behalf of the Kansas Association of Naturopathic Physicians (KNPA), who felt testimony heard yesterday epitomizes the efforts that they have made on our side. KNPA had listened to everything that the other side has said, given it fair consideration, debated it, and in most instances, have agreed and conceded. He offered a balloon, from Mr. Chip Wheelen's testimony given at yesterday's opponent meeting. Mr Federico felt this balloon incorporated everyone's concern and proceeded to walk the Committee through it. A copy of KNAP's proposed balloon is (Attachment 2) attached hereto and incorporated into the Minutes by reference.

He indicated that all of the typed text on the left hand side of the bill that is lined through is what the Committee was asked to consider yesterday and KNPA's language is off to the side.

1) on page 1, KNAP's language basically describes what naturopathic medicine and naturopathy is and this is a blend of what the osteopaths suggested and what KNPA is most comfortable with; lines 35-36 is an amendment recommended by the osteopaths and KNPA agreed to it.

2) on page 2,

a) the osteopaths tried to define what minor office procedures are, what is allowable and KNPA, made several minor changes to their language (identified in parenthesis as KNPA). The osteopaths are excluding the use of anesthesia and KNPA narrowed it even more by saying that naturopaths should not be allowed to use general or spinal anesthesia, but we do want to use a local anesthesia for purposes of small incisions or impedements. KNPA does not want to do surgery, the question is, are naturopathic doctors allowed to remove small impedements from the skin;

b) "ultraviolet" changed to "ultraviolet, OK with this;

c) legend drugs - KNPA have removed this section further down the bill and will actually list what is allowable and what isn't. Under the list of what is allowable is "natural estrogens" and "natural progesterone" and it felt it wise to define this and ask that these new definitions be implemented in (j) where legend drugs was;

3) KBHA had forwarded KNPA a list of recommendations of amendments (see KBHA in parenthesis throughout the bill), KNPA agreed to six of them, of the remaining, one was a large policy change and the other it was felt, was not necessary;

4) on page 5, lines 3-6 was offered by osteopaths and KNPA is fine with this change;

5) on page 6, KNAP's understanding, there were no amendments offered on this page;

6) on page 7, what KNPA heard was the scope of practice is too broad, but not only have we defined what the practice of naturopathic medicine is on page 1, on page 7 we defined exactly what naturopathic doctors can prescribe and on the next page (page 8) we defined what procedures they can do. Regarding New Sec. 13 states what a naturopathic doctor may not do, examples, line 16 means if the prescription or controlled drug is not in this bill, then they can't prescribe and line 21 states that naturopaths cannot perform surgery; in (b), the darker print to the right of the bill is a blend of what the osteopaths wanted, what KNPA needs and think is a fair compromise and this list exactly what the naturopathic doctors can and cannot prescribe; and (b)(5) the reference to legend drugs, again KMS has a problem with this, yet KNPA feels the problem has been fixed;

7) on page 8, he referenced:

a) the text at the top right (e) and (f) as being submitted by the osteopaths and sent to KNPA,

b) below it in text (c) is KNPA's language changes addressing scope of practice concerns of the Kansas Association of Osteopathic Medicine (KAOM) and the Kansas Medical Society (KMS) then and the underscored text are the ones that they wanted included in there.

8) on pages 9 and 10, KNPA has agreed to all of the remaining changes.

In conclusion, he stated in the way of concessions, naturopaths have given up the ability to perform obstetrics, surgery, emergency medicine, an open-ended formulary; it is listed in statutes what they can and cannot do; they have given up the use of the title “physicians” that the KMS prefers that they do not use, and the naturopaths were asked to go through the credentialing process by which the technical committee and the Secretary of Health and Environment has recommended them licensure.

The Chair then recognized the next conferee as Dr. Jane Murray, Family Physician, who gave a brief history of her background and stated that in the last 4 years she has referred patients to both of the doctors Khosh and find that they provide a type of care and knowledge base that she has not been trained in and have worked with them as well in developing and integrated medicine center for Via Christi in Wichita, and has put together, with Dr. Driscoe, who is now running, a course for medical students at KU in holistic medicine and the Kosh doctors have helped in teaching the students. And finally, she spoke at as a consumer who husband has been working with the naturopathic doctors as well as his physicians, as he battles his cancer. No written testimony was provided.

The next conferee recognized Dr. Medi Khosh who gave a brief history of his background in education stating:

- 1) that a licensed naturopathic doctor (N.D.) attends a four-year graduate level naturopathic medical school and is educated in all of the same basic sciences as an M.D. but also studies holistic and nontoxic approaches to therapy with a strong emphasis on disease prevention and optimizing wellness;
- 2) in addition to a standard medical curriculum, N.D.’s are required to complete four years of training in clinical nutrition, acupuncture, homeopathic medicine, botanical medicine, psychology, and counseling;
- 3) N.D.’s take a rigorous professional Naturopathic Physicians Licensing Examination (NPLEX), the standard examination used by all licensing jurisdictions for N.D.’s in North America, administered by an independent agency and includes all basic science exams (anatomy, physiology, pathology, biochemistry, microbiology, immunology, etc.) and clinical science examinations (clinical, physical, and laboratory diagnosis, diagnostic imaging, botanical medicine, pharmacology, nutrition, physical medicine, homeopathy, minor surgery, psychology, lifestyle counseling, an emergency medicine; and,
- 4) licensed N.D.’s must fulfill state-mandated continuing education requirements annually, and have a specific scope of practice defined by their state’s law.

And finally, he presented his reasons why naturopathic medicine licensing is needed in Kansas, the negative effect of what would happen without licensure, and statistics on freedom of choice of health care providers. A copy of his testimony is ([Attachment 3](#)) attached hereto and incorporated into the Minutes as referenced.

The fourth proponent conferee recognized was Ms. Kathy Elston, Via Christi Integrative Center Manager, who gave a brief history of Via Christi which, she said, was designed to enhance communication between the providers of complementary therapies and physicians. She stated the “team” a Doctor of Osteopathic Medicine as their Medical Director, a Chinese medicine practitioner, a massage therapist, a licensed clinical social work , a registered dietitian, a pharmacist, and consultation services of a naturopathic doctor. A copy of his testimony is ([Attachment 4](#)) attached hereto and incorporated into the Minutes as referenced.

Mr. Mike McCulley, a consumer from Wichita, was the next to testify. Mr. McCulley shared his “journey through the health care system” after he was diagnosed with pancreatic cancer and how the outcomes he enjoys today would not have been his, in spite of the great diagnostics, surgery, and oncology services, if naturopathic medicine had not been available. A copy of his testimony is ([Attachment 5](#)) attached hereto and incorporated into the Minutes as referenced.

Mr. Terry Miken, a consumer from Lawrence, was the sixth proponent to testify, who is also a cancer survivor. Mr. Miken gave a brief history of his illness. He included a visit with a rheumatologist at the Mayo Clinic who stated, five years ago he would strongly disagree with Mr. Miken looking at alternative medicine to deal with his illness, but today, he said he had no problems with his patients seeking reputable alternative care providers. A copy of his testimony is ([Attachment 6](#)) attached hereto and incorporated into the Minutes as referenced.

The final conferee recognized with Dr. Jeanne Driscoe, M.D., Department of Gynecology and Obstetrics of KU Medical Center, who gave a brief history of her background including her being hired in 1998 by the Dean of the School of Medicine to develop a Program in Integrative Medicine. Dr. Driscoe's testimony also provided statistics regarding health care consumers using and seeking services of Complementary and Alternative Medicine (CAM). She also provided, as an attachment, a letter from Ms. Laurie Labarca, Vice President of Operations, St. Joseph Campus, Via Christi Regional Medical Center, in Wichita, Kansas, being submitted in support of this legislation. A copy of Dr. Driscoe's testimony and her attachment is ([Attachment 7](#)) attached hereto and incorporated into the Minutes as referenced.

The Chair asked Dr. Driscoe if she was involved in writing the balloon amendments provided by Mr. Federico. Dr. Driscoe answered yes, that they had all sat down together and went over every line.

Written testimony was also provided from:

1. Dr. Lisa Pioli, D.O. in Leawood, Kansas to Senator Tyson;
2. Mr. John C. Kraft, an independent Pharmacist at the Family Prescription Compounding Pharmacy in Wichita, Kansas;
3. Ms. Hilary Kass, Public Health Educator at the University of Kansas Medical Center, Linwood, Kansas;;
4. Dr. Jill Sunfest, M.D., FACS, Chief Medical Officer, Preferred Health Systems, Wichita, Kansas;
5. Mr. George F. Stevens, President, Wichita Tobacco and Candy Co, Wichita, Kansas;
6. Mr. John R. McClure, consumer, Lawrence, Kansas.

A copy of the above written testimonies are ([Attachment 8](#)) hereto and incorporated into the Minutes as referenced.

Neutral testimony was provided by Mr. Keith R. Landis, Committee on Publication for Kansas, who proposed two amendments requesting removing existing wording on page 6 line 24 and page 9 lines 21 through 23 with "Individuals practicing religious beliefs which provide for reliance on spiritual means alone for healing." A copy of his testimony is ([Attachment 9](#)) hereto and incorporated into the Minutes as referenced.

The Chair then asked for questions or comments from the Committee. A discussion between Senator Wagle, Haley, Barnett, Harrington, and Praeger, Dr. Khosh, Mr. Federico, Mr. Landis, and Mr. Larry Buening involving such issues as is there a concurrent or similar bill in the House, have the concerns of KANP been discussed with KMS and KDHE, is there a felony standard for medical doctors, no mole removals or cancerous tissues only superficial lacerations that are not close the nerve ending, tendon, or any other major organ, agreeing to notion of working in partnership, both sides needing to work on the anesthesia and IV fluids, and is the liability coverage being looked at.

The Chair then announced that, as it is 2:30 p.m. the time the Senate reconvenes, the Committee is on a deadline, and will be going up against “you sent it over to the House to late”, so with the need to kick out this bill and the physical therapist’s bill today in order to get them debated this week on the Senate floor, the Committee will reconvene after session in Room 519-S.

Recessed

The Committee recessed to go on the floor at 2:35 p.m.

Reconvened

The Committee reconvened at 5:10 p.m. in Room 519-S, with all in attendance except Senator Praeger who was excused and Senator Jordan.

Final Action on SB583 - an act relating to physical therapy; concerning physical therapists

Upon reconvening, the Chair asked Mr. Steve Kearney to walk the Committee through the balloon that he offered on behalf of the Kansas Physical Therapists Association (KPTA). Mr. Kearney stated that:

- 1) on page 1, there was the insertion of the two titles;
- 2) on page 2, they deleted “means” and interted “may include” and included a laundry list of provisions and at Mr. Buening’s suggestion:
 - a) added “Such practices shall not be construed to be exclusive to physical therapists,” to ensure there are no intended consequences on line 20; and,
 - b) changed “medicine and surgery” to “the healing arts...” on line 23, which will bring in and alleviate some of the chiropractors concerns;
- 3) on page 3,
 - a) striking the word “physiotherapy” and “physiotherapists” on lines 15 and 16;
 - b) cleanup on lines 18 and 19 as on page 1;
 - c) material in brackets “[]” will be stricken as shown on line 21 “or physiotherapist”; and
 - d) in working with the chiropractors, beginning on line 20, inserted a clarification sentence since the terms physiotherapy and physical therapy are synanamous in the dictionary, which picks up the chiropractors and PT’s
 - e) lines 23 through 26 between the brackets, is language that was controversial from the beginning and that none of us really knew why this was there, has been stricken.

A copy of his balloon is ([Attachment 10](#)) attached hereto and incorporated into the Minutes by reference.

As there were no questions from the Committee, Senator Steineger moved that the amendments be adopted to the physical therapists bill be passed as amended. It was seconded by Senator Salmans and the motion passed. A motion was made by Senator Steineger moved the bill out favorably as amended. This was seconded by Senator Harrington and the motion carried.

Cont'd Hearing on SB610 - an act concerning naturopathy; providing for the licensure and regulation of practitioners thereof; providing for administration by the board of healing arts.

The Chair called upon Mr. John Federico to address the issues as shown on attachment 2. Mr. Federico said that not to offer testimony unfairly, he would walk the Committee through what the issues KANP would like to see resolved:

A) Issues 3 and 4 were not of great of concern to KMS and DO's, but of concern to Committee members, Senator Barnett with Issue 3 and Senator Haley on Issue 4;

B) Issues 1 and 2 have not been agreed on:

- a.) "Minor office procedures", is from KMS and is one of the Committee's options; option two is a combination of the osteopaths and naturopaths

A copy of his testimony is (Attachment 11) attached hereto and incorporated into the Minutes by referrence.

Adjournment

As it was 2:36 p.m., the meeting was adjourned as the Senate met at 2:30 p.m.

The next meeting is scheduled for March 5, 2002.

CONTINUATION SHEET