

Approved: February 18, 2008
Date

MINUTES OF THE HOUSE GOVERNMENT EFFICIENCY AND TECHNOLOGY COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 3:40 P.M. on February 11, 2008, in Room 526-S of the Capitol.

All members were present except Representatives Siegfried, Sloan, Tafanelli, Wilk, Frownfelter, and Holland, all of whom were excused.

Committee staff present:

Mary Galligan, Kansas Legislative Research Department
Jennifer Thierer, Kansas Legislative Research Department
Rena Jefferies, Office of Revisor of Statutes
Gary Deeter, Committee Assistant

Conferees appearing before the committee:

Randall Forbes, Attorney, Kansas Board of Examiners in Optometry
Penny Keelan Bowie, Executive Officer, Kansas Board of Examiners in Optometry
Debra Billingsley, Executive Secretary, State Board of Pharmacy

Others attending:

See attached list.

The Chair welcomed Representative Johnson back to the committee after his absence recovering from surgery. Representative Johnson expressed appreciation for members' concerns and thanked his wife Gwen for her faithful attention to his recuperative needs.

The minutes for February 7, 2008, were approved. (Motion, Representative Loganbill; second, Representative Kelley)

Commenting on the hearings by regulatory boards, the Chair noted that the public expects responsiveness regarding any complaint lodged with a regulatory board. He then welcomed Randall Forbes, Attorney, Kansas Board of Examiners in Optometry, who reviewed the statutory status and the complaint process of the Board (Attachment 1). He said the four-member Board (three optometrists and one public member) is appointed by the Governor, may serve up to three successive three-year terms, and is mandated to grant licenses for optometry and administer and enforce the Optometry Act (**K.S.A. 65-1517**). He traced the complaint process, saying that most disciplinary actions come through complaints from patients or other optometrists. The Board has no separate investigator; when a complaint is received, one of the Board members serves as investigator to determine if there is probable cause that a violation has occurred.

Mr. Forbes said if it appears that a violation has occurred, the investigator works to negotiate a settlement, which is then signed by the parties and reviewed by the entire Board (*sans* investigator). If the Board accepts the settlement, the case is closed. If the Board rejects it, the case goes to a hearing—either by the Board or by a hearing officer employed through the Department of Administration. He noted that none of the proceedings is confidential unless the case involves the Impaired Provider program. Answering a question, Penny Keelan Bowie, Executive Officer, Kansas Board of Examiners in Optometry, replied that out of 600 licensees, she

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receives six to eight complaints per year, or about 1%. Mr. Forbes replied that quality-of-care cases are rare; most deal with billing issues.

Debra Billingsley, Executive Secretary, State Board of Pharmacy, reviewed the activities of the Board (Attachment 2). She said the Board is comprised of six members: five licensed pharmacists and one public member; the Board is charged with protecting the health, safety, and welfare of Kansas citizens, and its members can serve up to two three-year terms. She listed the services of the Board and then outlined the complaint process, noting that the Board receives 70-90 complaints each year. The five investigators include one Board member, who does not participate in Board decisions for cases she has investigated. The investigators meet monthly to review cases; the Board meets quarterly and reviews all cases filed.

Commenting on the disciplinary measures, Ms. Billingsley said 11 pharmacy technician licenses were revoked in 2007, usually for theft of drugs. Each technician is offered a hearing, but most choose not to do so. Regarding the eight impaired pharmacists dealt with in 2007, she said immediate action is taken after a complaint is filed; usually the pharmacist signs a consent agreement not to practice until the Board makes a decision. After an evaluation, most pharmacists are enrolled in the Impaired Provider program and given five-year probation, during which time the pharmacist is not allowed to work alone in the pharmacy. She commented that each pharmacy is inspected annually and, of the 87 complaints, 14 resulted in fines, which range from about \$100 up to \$5000.

Answering questions, Ms. Billingsley said most criminal infractions are handled by the Kansas Attorney General's office. Representative Ruiz read a letter from a constituent regarding the high cost of prescription drugs. Ms. Billingsley said the Board is not constituted to address drug pricing or insurance policies regarding prescriptions. She said often a citizen can contact a drug manufacturer, who can provide certain drugs at minimal cost. She said the Board's greatest challenge is internet pharmacies that function outside the regulatory process. Mr. Forbes noted that legislation was recently introduced to address insurance issues related to prescription drugs; he commented that many states have attempted to regulate internet pharmacies. Ms. Billingsley said one gap in the enforcement statutes is the Board's inability to suspend pharmacy licenses.

The meeting was adjourned at 4:24 p.m. The next meeting is scheduled for Tuesday, February 12, 2008.