

Approved: February 7, 2008
Date

MINUTES OF THE HOUSE GOVERNMENT EFFICIENCY AND TECHNOLOGY COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 3:47 P.M. on February 6, 2008, in Room 526-S of the Capitol.

All members were present except Representatives Johnson, Kelley, Tafanelli, Wilk, Frownfelter, Holland, Mah, and Ruiz, all of whom were excused.

Committee staff present:

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

Conferees appearing before the committee:

Mark Stafford, General Counsel, Kansas Board of Healing Arts
Shelly Wakeman, Disciplinary Counsel, Kansas Board of Healing Arts

Others attending:

See attached list.

The Chair announced that the minutes for Tuesday, February 5, 2008, will be considered approved as printed unless there are corrections submitted by Thursday at 5:00 p.m.

The Chair welcomed Mark Stafford, General Counsel, Kansas Board of Healing Arts, who explained that the Executive Director, Larry Buening, who was scheduled to testify, was detained in Wichita by the snowstorm. Mr. Stafford introduced Shelly Wakefield, Disciplinary Counsel, Kansas Board of Healing Arts, referenced the written testimony ([Attachment 1](#)), and explained that he would primarily focus on responses to the Legislative Post Audit report from 2006. He said the Post Audit report produced significant changes in the way the Board functions; he commented that the Board's website lists policy statements as well as extensive information about the activities of the Board.

Explaining the Board's process for handling complaints, he said a complaint may come from a variety of sources. Whenever a complaint is received, it is recorded and a decision is made whether or not to order an investigation. If the complaint suggests a violation of the statutes regulated by the Board—primarily, malpractice, an investigation is ordered. Explaining the misunderstanding that no action is taken until three complaints have been made, Mr. Stafford said the previous policy was to investigate every complaint, a policy that overwhelmed the investigative staff, since some complaints need no response; the new policy states that if three complaints of sub-standard care are received about a health-care professional, an investigation is ordered.

Members repeatedly questioned the timeliness of the Board's response to complaints. Mr. Stafford replied that the review, investigation, and hearing/disciplinary process is based on judicial rules, not rumors or allegations, a process that requires time, especially since it includes examining extensive medical records.

CONTINUATION SHEET

MINUTES OF THE House Government Efficiency and Technology Committee at 3:47 P.M. on February 6, 2008 in Room 526-S of the Capitol.

Shelly Wakeman traced the anatomy of a complaint, saying the complaint is first scanned into the system, assigned a number within a week, and must be reviewed within seven days. Each Monday she evaluates the complaints; if she decides the complaint does not meet the standards for investigation, a letter is sent to the complainant. Otherwise, the complaint is assigned to an investigator, who has 90 days to contact the licensee regarding the complaint unless the case involves fraud, which requires a more timely response. Answering a question, she replied that the case must be closed within six months; however, some complex cases require more than six months to complete. She replied that most of the disciplinary actions are listed on the Board's website with hotlinks for those desiring further information. She stated that all proceedings are confidential until a disciplinary action is taken, at which time all information is released to the public.

Members commented on the length of the process and the span of time without any communication to the complainant; members recommended that the Board develop a process to keep the complainant better informed during the investigative process, a recommendation that Mr. Stafford agreed was needed. Mr. Stafford said the new computer system assists in tracking cases, and quarterly review of each investigator's cases is conducted. He replied that, at any given time, each of the eight investigators may have a caseload from 40 to 90 open cases. To another question he commented that most of the Board's guidelines are statutory and leave limited interpretive leeway.

Mr. Stafford explained that when an investigation is completed, a review committee of volunteer health-care professionals in the same field as the licensee act as a grand jury and make a determination whether or not to proceed to a hearing, and, if not a hearing, what other actions might be taken. He replied that nearly all the investigators have a law enforcement background. He responded that the Board is presently considering a graduated series of sanctions. He replied that if an investigator discovers a licensee's criminal conduct, the case is turned over to the Kansas Attorney General. When members pressed Mr. Stafford regarding a timely response to complaints, he replied that presently 550 cases are open for investigation and that with more staff, perhaps the response time could be reduced.

The meeting was adjourned at 4:49 p.m. The next meeting is scheduled for Thursday, February 7, 2008.