

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE.

The meeting was called to order by Chairperson Senator Susan Wagle at 9:00 a.m. on May 4, 2002 in Room 231-N of the Capitol.

All members were present except: Senator David Haley
Senator Chris Steineger

Committee staff present: Mr. Norm Furse, Revisor of Statutes
Ms. Emalene Correll, Kansas Legislative Research Department
Ms. Lisa Montgomery, Revisor of Statutes
Ms. Margaret Cianciarulo, Administrative Assistant

Conferees appearing before the committee:

Others attending: See attached guest list.

Update on HB2711 - health care providers' rights of conscience act,

Upon calling the meeting, Chairperson Susan Wagle announced that today the Committee would be hearing and discussing updates on previously heard bills. She began by stating there were not enough votes in Committee to pass HB2711, health care providers' rights of conscience act, as written. She stated, there was thought about passing out a negotiated bill that would allow the rights of conscience for a surgical abortion and a medical abortion, which would mean something that is done by a pill, ex. RU486, but it was just learned this morning that the RU486 is regulated by the FDA and has to be given in a doctor's office with three physician visits, meaning, a pharmacist does not give out the RU486. So if the Committee were to pass out the bill, it really would not offer anything. The Chair suggested the Committee wait, and if there is something offered in a day or two, this can be looked at.

Update on previously heard SB610 - concerning naturopathy; providing for the licensure and regulation of practitioners thereof; providing for administration by the board of healing arts

Next she stated, a licensure of naturopaths bill was passed by the Committee and there was opposition to it, but not nearly the opposition that came out of the House, so this bill has been stalled. However, she stated that the physicians and naturopaths have come to an agreement. It is not a licensure bill, but it is a bill for registration. This has been negotiated and is ready to go and does not think there is objection to the bill.

The Chair then stated, the other problem was that the Senate passed out the physical therapy bill, 40-0, it was sent to the House, and other health care providers had objections with it to the point there was never a hearing. The Chair mentioned she was holding the O.T.'s bill as a vehicle (which is HB2315), but now the concern is that it is not fair to not give the O.T.'s their bill when there is support for the bill.

In conclusion, she wanted the Committee to understand the negotiated agreement on naturopaths, Mr. Furse to explain this bill to the Committee, but with the understanding that does not mean the Committee would be working anything. Her thoughts are to kick out the OT bill, and whatever the House agrees to we know we can add on the floor. But first, she wanted to go over the naturopaths bill (SB610).

The Chair stated there was a proposal in front of the Committee and she called upon Mr. Furse to explain the proposal. He stated that the House Committee is considering, not acted yet but have worked through, (in quite a number of hearings in their subcommittee on credentialing and in to the whole committee with some other discussion), and ended up with a proposal that right now discusses registration throughout the bill rather than licensure. Mr. Furse stated this would mean, in legal terms, what is protected would be the title or the terms of naturopathic doctor that these registered people would be called, it does not protect the scope of practice of naturopathy. However, he went on to say, the scope of practice in any healing arts situation is protected under the healing arts act which protects the scope of practice of anyone doing any healing for money.

In effect, registration would allow:

- 1) naturopaths to practice and call themselves these certain terms which no one else would be allowed to use yet through the healing arts act; and,
- 2) some protection is in effect for scope of practice but it would not be part of the naturopathy act as the House is currently considering (and subject to change).

He stated, what this proposal does to the bill this Committee passed out would be to:

- 1) change "licensure" to "registration" throughout;
- 2) delete:
 - a) the exclusion section (in the Senate licensure version of the bill there was a lengthy exclusion section of those persons who will not be affected by licensure aspect of the act).
 - b) the amendatory sections in the bill (because they were related to the healing arts act, the exclusion there for the naturopaths and to the pharmacy act.

The language is generally the same as it came out of the Senate Committee with some technical massaging.

The House subsidy changes:

- a) the naturopathic medicine would be modified;
- b) as shown in New Sec. 2 (b) the scope of practice statements would be moved up to the definition section to allow scope of practice; new language added "and includes" which would pick up the substantive authorization in the scope of practice so the practice of naturopathy medicine would include "prescribing, recommending or administering...." (See in New Sec. 2: (1) which list out a number of substances that are not designated as prescription drugs or controlled substances, (2) health care which would also include health care counseling, nutritional counseling, as so forth, and (3) include substances on the naturopathic formulary which are authorized for intramuscular or intravenous administration pursuant to a written protocol (4) noninvasive physical exams and veinpuncture to obtain blood for lab test and orificial exams, excluding endoscopies;
- c) in (5) of the New Sec. 2, "minor office procedures" would be included and they were not otherwise found in the bill so this would be inclusion of this draft which the House has not addressed this yet and (6) naturopathic acupuncture is similar to what the Committee already had;
- d) still on page 2, the bill reads "Naturopathic medicine or naturopathy shall not include surgery, obstetrics, administering ionizing radiation, or prescribing, dispensing or administering any controlled substance or any prescription-only drugs except those listed on the naturopathic formulary adopted by the board pursuant to this act." Mr. Furse stated this proposal would set up a formulary committee to advise the board in adopting substances that the naturopaths might be able to use as part of their practice;
- e) ©) (d), (e), and (f) are all similar to the Senate version;
- f) "Minor office procedures" (g) is clarified the language to include "shall not include the suturing, repairing, alteration or removal of tissues or the use of general or spinal anesthesia;
- g) "Naturopathic physical applications" (h) includes a language change in the last line where "naturopathic musculoskeletal technique" was substituted for something like "manipulative technique musculoskeltal" which was found in the previous draft;

h) "Topical drugs" (i) includes substances listed but does not include prescription only drugs;

I) "Written protocol" is used here as a formal written agreement between a doctor and a naturopathic doctor registered by the act, and a person licensed to practice medicine and surgery. "Collaborative agreement" was the previous term that was considered and the House committee submitted this language change;

j) pages 4, 5, and six get into New Sec. 3, 4, 5, and six, that are really procedural and include minor language massaging and technical cleanups;

k) New Sec. 7, the fee section on page 7, basically the licensure act set the fees similar for the fees of M.D.'s, D.O.'s fees in the healing arts act. The House committee is considering if they go with registration to use the fees that are more appropriate for registered persons and so the larger fees that were in the first version of the bill would be changed to the fees similar to those of other registered (PT.'S, O.T.'s, etc.);

l) on page 8, sub. (3) is a policy procedure this Committee made this that grants for revocation of a license for being convicted on a felony and the House is considering reinserting the subsequent language if the acts of which a person is convicted are found to have a direct bearing on the practice of persons

m) on page 10, New Sec. 10, in the licensure bill the language says that it is unlawful for a person licensed to practice naturopathic medicine and under the registration act the practice naturopathic medicine would be eliminated but the terms would be protected as in this section as with the Senate bill with protected terms which are listed in this section. A violation of this has traditionally been a class B misdemeanor;

n) New Sec. 12 creates the naturopathic formulary advisory committee providing that the board of healing arts would adopt the naturopathic formulary which lists the drugs and substances which are approved for intramuscular or intravenous administration by a naturopathic doctor pursuant to the order of a physician, so the formulary could list and approve the drugs but still subject to the order of a physician. The board of healing arts is going to create the formulary but this advisory committee is going to recommend to the board what substances are on that formulary. He then stated who would be on the advisory committee (ex. Licensed pharmacists, two persons licensed to practice medicine and surgery, etc.);

o) New. Sec. 13 is the language relating to naturopathic acupuncture and is essentially the same as what was passed in the Senate;

p) New Sec. 14 is the naturopathic advisory council and the language has not changed;

q) New Sec. 15 is language relating to violation of the act;

r) New Sec. 16 relates to adjudicative proceedings and this section also passed the Senate;

s) New Sec. 17 is the professional liability insurance act and the House may be considering some changes;

t) and finally, New Sec. 18 would be a new section in the bill adding the confidential communications "are placed on the same basis as provided by law between" the doctor and the patient. A copy of this bill is (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

Mr. Furse then stood before the Committee for questions. A discussion ensued between Senator Salmans, Ms. Correll and Mr. Furse regarding such issues as third party payment, license reverses, registration, affect people grand fathered or people out-of-state, previous law allows individuals to continue practicing having nothing to do with licensure, and does this bill establish some criteria of schools or qualifications.

As there was no further discussion, the Chair stated that the reason she wanted the Committee to understand this new bill is because she thinks they are close to negotiating and hopeful that some time we can run this on the Senate floor.

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

The Chair said the Senate passed the physical therapy bill 40-0, and then other providers became concerned about the bill. She stated that Mr. Tom Bruno, representing the Athletic Trainers (A.T.'s), said they had a concern about the bill as it was written and have negotiated a compromise with the physical therapists (PT.'S). The Chair then asked Mr. Bruno to explain conceptually what their concern was. A copy of his amendment is (Attachment 2) attached hereto and incorporated into the Minutes as referenced.

The Chair then recognized Mr. Steve Kearney, on behalf of the physical therapists, to express his. A copy of page 1 and 2 of **SB583** that Mr. Kearney passed out to the Committee is (Attachment 3) attached hereto and incorporated into the Minutes as referenced.

The Chair then announced that there is a compromise between the athletic trainers and the physical therapists and then the medical society had a concern about the bill also. She then asked Ms. Chris Collins, on behalf of the Kansas Medical Society, to explain their balloon, as they would not support the bill without it. A copy of page 3 of **SB583** is (Attachment 4) attached hereto and incorporated into the Minutes as referenced

The Chair asked Ms. Collins if the PT.'S agreed with this amendment and Ms. Collins said yes.

The Chair then stated she wanted to explain to the Committee where the P.T. bill was at and why it hasn't passed both sides. She also mentioned Senator Salmans had an amendment pertaining to physicians at Topeka State Hospital that has not passed the other side.

Discussion of HB2315 - an act concerning occupational therapists; licensure thereof.

The Chair then asked if the Committee would be willing to the cleanup the O.T.'s bill which is **HB2315** that does have some technical amendments that need to be made to that, kicking it out, getting it read in and then on Monday, May 6, 2002, they can debate on the floor, push it through, and then if the House concurs, the O.T.'s will have a bill. The Chair then said if the remaining bills were negotiated (the PT.'S, naturopaths, and Senator Salmans amendment), they can add them on the floor.

The Chair then asked Mr. Furse to cover the technical amendments for the occupational therapists. Mr. Furse stated the language change from "client" to "an individual" on page 1, line 40 and on page 9, line 28, from "therapist" to "therapy assistant" were the two technical changes discussed earlier by the Committee. A copy of these changes is (Attachment 5) attached hereto and incorporated into the Minutes by reference.

A discussion ensued between Ms. Correl, Senators Wagle, Praeger and Barnett, and Mr. Tuc Duncan concerning such issues as disability prevention methods and techniques, adding a whole new laundry list of things to the OT act, a physical therapy bill, clarification of stating exclusively what O.T.'s can do, this bill not part of a practice act, occupational therapy intervention, and scope of practice.

A motion was made by Senator Brungardt to move the technical amendments, seconded by Senator Praeger and the motion carried. Senator Brungardt made a motion to pass the bill out favorably. This was seconded by Senator Praeger and the motion carried. Senator Salmans made a substitute motion to pass it out with the amendment to license the people in the hospitals. This was not seconded.

Senator Praeger asked where Senator Salmans amendment was. The Chair stated there has not even been a hearing for this or the P.T. bill. The Chair said if they could get a conference committee scheduled then we can put the Senate positions in these conference committees.

As there was no further discussion, the Chair adjourned the meeting.

Adjournment

Adjournment time was at 10:59 a.m.

The next meeting is on call of the Chair.

CONTINUATION SHEET