

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 March 21, 2002 in Room 231-N of the Capitol.

All members were present except: Senator David Haley
Senator Nick Jordan
Mr. Norm Furse, Revisor of Statutes

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

Conferees appearing before the committee: Ms. Phyllis Gilmore, Executive Director of the Behavioral Sciences Regulatory Board
Mr. Ron Hein, Legislative Counsel for the Mental Health Credentialing Coalition
Dr. Michael Cooper, Optometrist
Mr. Kevin McCallum, Vice President - Marketing for 1-800 CONTACTS
Mr. Frank Rozak, Legislative Consultant, for Cole Vision Corporation
Ms. Charlotte Norton, District Manager, Wal-Mart

Others attending: See attached guest list.

Hearing on HB2372 - an act concerning the board of behavioral sciences; marriage and family therapists and psychologists

Chairperson Susan Wagle opened the meeting by announcing there would be a hearing on HB2372, as stated above, and asked Ms. Lisa Montgomery, Revisor of Statutes to give a brief explanation of the bill.

Ms. Montgomery stated that the bill has two language changes related to licensure: from "at least equivalent to or exceed: to "substantially the equivalent" in Sec. 1, and from "or" to " in Sec. 2 regarding licensing of psychologists.

As there were no questions for Ms. Montgomery, the Chair then called on the first of the two proponent conferees, Ms. Phyllis Gilmore, Executive Director of the Behavioral Sciences Regulatory Board (BRSB). Ms. Gilmore stated that the bill, at the request of the board:

- 1) amends part of the marriage and family act by changing the standard to be used in determining whether a person who is licensed in another state may be licensed in Kansas; and;
- 2) amends the psychology act by directing the BRSB to issue a license to an applicant on the basis of the applicant's training and experience "and" who passed an examination in psychology.

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

The next proponent to testify was Mr. Ron Hein, legislative counsel for the Mental Health Credentialing Coalition who stated the bill, for professionals who are credentialed through the BSRB, clarifies:

- 1) those comparable standards and makes the MFT statute comparable to and consistent with the other licensed professionals of the BSRB; and,
- 2) the applicant should satisfy the Board in both the applicant's training and experience and pass an examination in psychology. A copy of his testimony is (Attachment 2) attached hereto and incorporated into the Minutes by reference.

As there was no opponent or written testimony presented and no questions for the proponents, Senator Jordan motioned that the bill be passed out favorably as is. Senator Barnett seconded and the motion carried.

Hearing on HB2285 - an act concerning optometry; relating to contact lens

Next on the agenda was the opponent hearing on HB2285 as stated above. The Chair recognized, Dr. Michael Cooper stated he was here to demonstrate that the motivations of many eye care professionals are driven by economics, not necessarily patient health concerns. He stated that once law, the bill will: inhibit competition by establishing a quasi-monopoly, add an estimated \$19 to \$38 M in yearly professional fees, and create greater ocular health risks and incidence of disease to the public. And finally, he provided "Plaintiff's Statement of Facts" in the Contact Lens Antitrust Litigation in the U.S. District Court in Jacksonville, Florida. A copy of his testimony and the litigation is (Attachment 3) attached hereto and incorporated into the Minutes by reference.

The next opponent was Mr. Kevin, McCallum, Vice President - Marketing for 1-800-CONTACTS, who stated that this bill was never publicly heard in the Kansas House and is an attempt by organized optometry in the state of Kansas to regulate competition. He stated four issues which will reward anti-consumer and anti-competitive behavior:

1. Sec. 2 (a) - prescription release "upon request" (ensures all contact lens wearers get the same price and extends the same rights to contact lens wearers that eyeglass wearers enjoy as mandated by a federal statute);
2. Sec. 2 - prescription expiration period of no less than 12 months (intended to minimize the financial conflict of interest that exists);
3. Sec. 3 - registration under the Kansas Board of Optometry (organized optometry asking for legislation for a board of optometrists to regulate their competition and levy \$10,000.00 fines); and
4. Missing language - required response to prescription verification requests (this bill carries no requirement for optometrists to respond to third party prescription requests. His attachments show examples)

Mr. McCallum also presented a short video of people with hidden cameras in the above situations. A copy of his testimony and his attachments are (Attachment 4) attached hereto and incorporated into the Minutes by reference.

The third opponent to be called on was Mr. Frank Rozak, legislative consultant for Cole Vision Corporation which operates nine "Sears Optical" and five "Target Optical" who testified they strongly endorse the proposed amendments offered yesterday by representatives of the Kansas Optometric Association to ensure consumers will continue to possess a maximum of "freedom of choice" in selecting a provider for their replacement contact lenses. A copy of his testimony is (Attachment 5) attached hereto and incorporated into the Minutes by reference.

The last to testify as an opponent was Ms. Charlotte Norton, District Manager of Wal-Mart Optical Centers who stated they oppose this bill for four reasons:

1. Against a certification requirement to sell or dispense contact, which would not improve the quality of eye care in Kansas, may push some optical stores out of business and would limit the choice patients have when filling their eyewear prescription;
2. Opposes giving the Board of Examiners in Optometry the power to supervise and certify eyewear sellers, better suited for a health-related agency such and KDHE;
3. Concerned that the bill's current language could require every store in an optical chain to have a license or be certified, citing the same reasons as in the first reason above; and,
4. Opposes the proposed fine language, believing that the maximum \$10,000 fine is excessive.

Ms. Norton also share Wal-Mart's principals it supports when evaluating optical legislation. A copy of her testimony is ([Attachment 6](#)) attached hereto and incorporated into the Minutes by reference.

A question and answer discussion followed between Senators Wagle, Salmans, Barnett, Harrington, Jordan, Brungardt, and Praeger and Mr. McCallum, Ms. Norton, Dr. Cooper, Mr. Rozak, and Mr. Gary Robbins who testified at yesterday's proponent hearing on this bill. Questions ranged from the 2-year prescription versus 1-year, follow-up care, the "Warning" response, the 2-hour release of prescriptions, asking a nurse to check, handling of defective lenses, issue of insurance, fees, standard of care, the Nebraska and pending legislation, to implications of HIPPA.

As there was no further discussion, the Chair closed the hearing.

Adjournment

Adjournment time was at 2:30 p.m.

The next meeting is scheduled for March 25, 2002.

CONTINUATION SHEET