

SESSION OF 2006

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2649**

As Recommended on by Senate Committee on
Public Health and Welfare

Brief*

Senate Sub for HB 2649, if enacted, would create a new act to be entitled The Pain Patient's Quality of Care Act and would amend two of the statutes in the Kansas Healing Arts Act and a statute that concerns assisted suicide.

The first three sections of the substitute bill, which would constitute The Pain Patient's Quality of Care Act, would:

- Set out legislative findings, including:
 - Pain is a significant health problem, and the diagnosis and treatment of pain is complex and can involve several treatment modalities.
 - The treatment of pain may require the use of controlled substances in appropriate circumstances.
 - In order to promote the public health, safety, and welfare, the state has a duty to restrict the inappropriate use of controlled substances while supporting a physician's or other health care provider's ability to provide appropriate pain treatment.
- Set out rights and responsibilities of a person suffering from pain, including:
 - Being an active participant in decisions about the assessment, diagnosis, and treatment of the patient's pain;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Being able to accept or reject the use of any or all modalities recommended to treat the patient's pain; and
- Reporting all symptoms and concerns accurately, completely, and honestly to physicians and other health care professionals assessing and treating the patient's pain.

Nothing in the new act is to be construed to prevent, restrict, or limit a physician or other person authorized to prescribe drugs from prescribing, dispensing, administering, or distributing a controlled substance to a patient for the treatment of pain when the controlled substance is for a valid medical purpose and based on appropriate clinical indications. Nothing is to be construed to require a physician or other person authorized to prescribe drugs to prescribe, dispense, administer, or distribute a controlled substance for the treatment of pain if, in the judgement of the prescriber, the use of a controlled substance is not clinically indicated or the most appropriate therapeutic modality.

The amendments to a statute relating to assisted suicide would delete two phrases from the statute, both references to medications and procedures that may hasten or increase the risk of death. The amendments do not change the provisions of existing law that protect licensed health care professionals from being considered as assisting suicide when they prescribe, dispense, or administer medications or procedures to relieve another's pain unless such medications or procedures are knowingly prescribed with the intent to cause death.

The two statutes in the Kansas Healing Arts Act that would be amended by the substitute bill relate to acts by licensees that constitute professional incompetency and authority of the Board of Healing Arts to take disciplinary actions against the licensee. The amendments would:

- Change language relating to prescribing, dispensing, administering, or distributing a prescription drug or substance to make such practice unprofessional conduct only when done in an improper or inappropriate manner or for other than a valid medical purpose;
- Require the Board to adopt guidelines for the use of controlled substances for the treatment of pain; and

- Upon request of another enforcement or regulatory agency or a healing arts licensee, authorize the Board to render a written advisory opinion indicating whether the licensee prescribed, dispensed, administered, or distributed controlled substances for the treatment of pain in accordance with the guidelines adopted by the Board.

Background

HB 2649 was introduced by the House Committee at the request of a member of the House. Representatives of the Living Initiatives for End of Life Care Project and Kansas Advocates for Better Care appeared in support of the bill at the House Committee hearing. Representatives of the Kansas Medical Society and the Association of Osteopathic Medicine suggested amendments. The House Committee recommended amendments to the original bill.

At the hearings on the bill as amended by the House in Senate Committee, opponents to the bill appeared, and the representative of one organization that had supported the bill in House Committee hearings indicated members of the association, after review of the bill, no longer were in support. The substitute bill represents a collaborative effort by parties with an interest in pain management to respond to concerns about the bill as it passed the House.

The fiscal note on the original bill stated neither the Board of Healing Arts nor the Board of Nursing indicated passage of the bill would have a fiscal impact on agency operations.