

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 February 14, 2002 in Room 231-N , of the Capitol.

All members were present except: Senator Nick Jordan (EA)  
Senator Nancey Harrington  
Senator Pete Brungardt (EA)

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

Conferees appearing before the committee: Mr. Chip Wheelen, Executive director,  
KS Association of Osteopathic Medicine  
Mr. Larry Buening, Executive Director,  
KS Board of Healing Arts  
Ms. Chris Collins, Director of Government Affairs for  
KS Medical Society

Others attending: See attached guest list.

**Withdrawing introduction of a bill**

Upon calling the meeting Chairperson Wagle announced that before the hearing she would ask that Senator Barnett to withdraw his request for introduction of a bill dealing with medicaid fraud and abuse. Senator Praeger seconded the motion and the motion carried.

**Hearing on SB447 - an act concerning the compensation of review committee members appointed by the State Board of Healing Arts.**

Next the Chair announced that before the hearing, Ms. Emalene correll, Kansas Legislative Research Department, would present a brief overview of the bill. The highlights on the three sections were: compensation, new language in the statute, and the amendment substitute having the same language. Senator Praeger and Ms. Correll discussed if this was a new provision because it was a new bill.

Chairperson then called on the first opponent. Mr. Chip Wheelen, Executive Director, KS Association of Osteopathic Medicine, who gave some background as to how individuals are recruited to serve on review committees, how in the past a modest fee for service for compensation was paid to the members, but that the practice was curtailed because of concerns of inconsistencies with provisions of current law limiting the amount elected & appointed officials may be paid.. He also stated that the bill clarifies hourly compensation. A written copy of his testimony is (Attachment 1) attached hereto and incorporated into the Minutes by reference.

Following Mr. Wheelen presentation, Chairperson Wagle recognized Mr. Larry Buening, Executive Director, KS Board of Healing Arts, who gave a history of the review committees and their importance (i.e. expert witnesses for a disciplinary proceeding involving the standard of care of a practitioner.)and dollar amounts the Board expended in 2001 and 2002. He also stated that HB2121 does not require the Board to compensate review committee members for time expended in preparation for the meetings. A copy of his written testimony is (Attachment 2) attached hereto and incorporated into the Minutes by reference.

The last proponent testimony is from Ms. Chris Collins,, Director of Government Affairs who stated the lack of compensation makes it very difficult for the Board to attract talented physician reviewers willing to accept the task. A written copy of her testimony is ([Attachment 3](#)) attached hereto and incorporated into the Minutes by reference.

Last to testify was Ms. Carolyn Middendorf, representative of the Kansas State Nurses Association who stated that the Board was interested in amending into the bill, the statutes pertaining to the Board of Nursing so that they would have authority to not only appoint peer review committees, but to compensate them. Written testimony was not provided.

As there were no proponent or written testimony, Chairperson Wagle asked for questions or comments from the Committee. Questions from Ms. Correll, Senators Salmans and Barnett ranging from “expert witness” seeming a little broad, the fiscal note (impact on the budget?), to other disciplines, the three branches of healing arts and podiatry . The questions were answered by Mr. Buening.

**Hearing on [SB448](#) - the exclusion of team physicians for the purpose of practicing the healing arts.**

Chairperson Wagle then moved on to the hearing of [SB448](#), an act concerning the exclusion of team physicians for the purpose of practicing the healing arts. Again, she called upon Ms. Emalene Correll to give a brief overview of the bill. The highlights of the bill included ramifications that are well identified (i.e. acupuncture and ear piercing by department store clerks), exclusion on language (ninety (90) days), to a major policy amendment in included in [SB448](#).

Chairperson Wagle then called the first proponent to the bill, Mr. Larry Buening, Executive Director, Kansas Board of Healing Arts who stated the bill gives a more detailed description of what constitutes a surgical operation and includes procedures that fall within that definition when performed for cosmetic or figurative purposes and would specifically exclude individuals licensed in another state who accompany school and professional athletes in this state. A copy of his written testimony is ([Attachment 4](#)) attached hereto and incorporated into Minutes by reference.

Next proponent to testify was Mr. Chip Wheelen, Executive Director, Kansas Association of Osteopathic Medicine, who stated it might be helpful to remember that the Healing Arts Act is based on the premise that there are 3 distinct branches of th healing arts. The definition of osteopathic practice is over four decades old and an example is shown in subsection (a) that relies on the phrase “as heretofore interpreted by the supreme court of this state. 45 years later, no one is really certain what that means. Their proposed amendment would specifically rely on the definition of medicine and surgery but condition that definition on the person’s academic degree. A copy of his written testimony and amendment are ([Attachment 5](#)) attached hereto and incorporated into Minutes by reference.

The third proponent to testify was Ms. Chris Collins, Director of Government Affairs to the Kansas Medical Society. Ms. Collins stated that she would forgo speaking in absence of time. A copy of her written testimony is ([Attachment 6](#)) attached hereto and incorporated into Minutes by reference.

Chairperson Wagle then introduced Mr. Keith Landis, Christian Science Commissioner of Publications, who proposed an amendment on page 1 of the bill replacing lines 37-39 to read:

“Individuals practicing religious beliefs which provide for reliance on spiritual means alone for healing.”

A copy of his written testimony is ([Attachment 7](#)) attached hereto and incorporated into Minutes by reference.

Chairperson Wagle then asked for questions or comments from the Committee. A discussion ensued between Senators Salmans and Barnett, Ms. Correll, and Mr. Larry Buening regarding the HB on cosmetology introduced last year regarding parking lot issues, sonograms, "mental disorder", ear piercing, and laser surgery.

### **Adjournment**

As there was no further discussion, the meeting was adjourned. Adjournment time was at 2:35 p.m.

The next meeting is scheduled for February 19, 2002.

CONTINUATION SHEET