

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman James Barnett at 1:30 P.M. on March 11, 2008 in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Emalene Correll, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Nobuko Folmsbee, Revisor of Statutes  
Renaë Jefferies, Revisor of Statutes  
Jan Lunn, Committee Secretary

Conferees appearing before the committee:

Linda Merrill, CEO, Envision, Inc.  
Sam Williams, Vice Chair, Envision, Inc.  
Gary Robbins, Executive Director, Kansas Optometric Association  
Kendall Krug, OD, Hays, Kansas  
David Westbrook, representing Kansas Optometric Association  
Jerry Slaughter, Kansas Medical Society  
Michael Byington, Kansas Association for the Blind and Visually Impaired

Others attending:

See attached list.

**SB - 568 - Optometrist's and Kansas nonprofit low vision rehabilitation centers.**

Renaë Jefferies, revisor, briefed those attending on **SB 568**. The proposed legislation amends the current optometry law to allow a licensed optometrist to practice in a non-profit, low-vision center. In addition, a non-profit, low-vision center is defined, and the bill excepts such a non-profit low-vision center from practicing, offering, or undertaking optometry. Ms. Jefferies indicated the fiscal note projects expenditures increasing \$10,000 annually due to the increase in complaints the Kansas Board of Examiners would receive. Ms. Jefferies briefing is attached to these minutes. (Attachment 1).

Chairman Barnett recognized Senator Schodorf who, along with Senator Wagle, introduced this legislation. Senator Schodorf spoke to those attending regarding the work that had been done to provide a non-profit, low-vision clinic (no written testimony).

Chairman Barnett recognized Linda Merrill, CEO, of Envision, Inc., who, in turn, recognized Sam Williams, Vice Chair of the Board of Directors, Envision, Inc. Mr. Williams indicated Envision is non-profit, low-vision company offering a "one-stop shop" to low-vision clients providing services from a multi-disciplinary team encompassing evaluation, diagnosis, disease management, rehabilitation, and education/support. Mr. Williams spoke in support of **SB 568**. (No written testimony).

Ms. Linda Merrill, President and CEO, of Envision, Inc. rose to speak in support of **SB 568**. Ms. Merrill distributed a comprehensive folder containing information about the company, letters of support, a graphic detailing the model of service delivery, a list of low-vision optometrists in Kansas, a communication from the Federal Trade Commission relative to competition, and a list of non-profit agencies for the blind. Also included was a sheet on frequently asked questions, a "Legislative Advisory from Envision," and a fact sheet entitled "Envision Senate Bill 568 Fact Sheet." Ms. Merrill indicated Envision, Inc., has worked with Kansas optometrists for the last twelve months to come to a mutually beneficial resolution. Unfortunately, resolution has been unsuccessful for fear of competition as the barrier, Ms. Merrill stated. Ms. Merrill emphasized the company's mission is to provide comprehensive services (pediatric and geriatric) and to enhance access to care for an underserved population. (See Attachments 2-10).

Senator Haley questioned what type of complaints might be generated (refer to Ms. Jefferies testimony relative to the fiscal note) to warrant an additional \$10,000 expenditure? Ms. Merrill

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responded that, in her opinion, the projection was too high in that the majority of the 54 complaints generated in the previous year related to contractual issues, not patient-care issues.

Chairman Barnett recognized Gary Robbins, executive director of the Kansas Optometric Association, who spoke in opposition to **SB 568**. Mr. Robbins indicated the legislation was unnecessary citing approximately 40 low-vision optometrists currently practice in the state. In addition, the legislation would provide for unregulated optometry practice as well as expanding the pool to include outpatient rehabilitation facilities certified to participate in the Medicare program. Mr. Robbins testimony is attached, and therefore, becomes part of this record. (See Attachment 11).

Kendall Krug, doctor of optometry from Hays, Kansas, was recognized to provide testimony. Dr Krug has served on the Low-Vision Section Council of the American Optometric Association, the Medical Advisory Committee of Blue Cross and Blue Shield of Kansas as well as serving on the Envision Medical Advisory Committee. Dr. Krug spoke in opposition to **SB 568** indicating the legislation could have the unintended effect of reducing quality as a non-regulated, non-medical entity providing medical care. Dr. Krug's testimony is attached and incorporated into these minutes. (Attachment 12)

Chairman Barnett introduced David Westbrook, president of the Corporate Communications Group. Mr. Westbrook's company works closely with the Eye Care Council and Kansas Optometric Association, and he spoke in opposition to **SB 568**. Mr. Westbrook, speaking not only from the perspective of a business-owner consulting with these organizations, but also as a Kansan who is totally blind (Attachment 13), elaborated that his concerns were not with expanding resources but related to the centralization of resources in an unregulated environment where optometrists are hired and report to a corporation rather than a medical professional.

Jerry Slaughter, executive director of the Kansas Medical Society, began his testimony by recognizing Wesley H. Sowders, a senator for ten years, who passed away recently. Mr. Slaughter recognized his contributions to the Public Health and Welfare Committee and the Health Care Stabilization Fund. Mr. Slaughter indicated that **SB 568** affects Kansas law principles and holds the risk of spilling over into the Kansas Healing Arts Act. The Medical Society supports the principle that patient care is the responsibility of a medical provider who makes independent decisions without oversight by a corporation. Mr. Slaughter urged rejection of the proposed legislation. (Attachment 14)

Michael Byington, representing the Kansas Association for the Blind and Visually Impaired (KABVI), was recognized to provide testimony opposing **SB 568**. Mr. Byington provided a brief history of the KABVI organization emphasizing its all-volunteer staff dedicated to improving services to the blind and low-vision consumer. Mr. Byington indicated that after spirited discussion, KABVI cannot support **SB 568** due to lack of participation by blind and low-vision clients. Proposed legislation of this type should include components of consumer input, peer support, and consultation relative to credentialing low-vision practitioners. (Attachment 15)

Chairman Barnett called committee members' attention to written testimony from Pat Hall and Bob Chaffin from the Northwest Kansas Association for the Visually Impaired in Hays, Kansas. Their testimony opposing **SB 568** is attached and should be considered part of this record. (Attachment 16)

The minutes of the March 5 and 6, 2008, Public Health and Welfare Committee were reviewed by committee members. Senator Haley moved to accept the minutes as submitted, Senator Wagle seconded the motion; the motion passed.

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The meeting was adjourned at 2:30PM.

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