

M I N U T E S

SPECIAL COMMITTEE ON PUBLIC HEALTH AND WELFARE

November 2, 1977

Room 527, State House

Members Present

Representative Michael G. Johnson, Chairman
Senator Wesley H. Sowers, Vice-Chairman
Senator John E. Chandler
Senator Mike Johnston
Representative Theo Cribbs
Representative Sharon Hess
Representative Pascal A. Roniger
Representative Larry F. Turnquist

Staff Present

Emalene Correll, Kansas Legislative Research Department
Sherman Parks, Revisor of Statutes Office

Others Present

Sharon Malloy, Wesley Medical Center, Wichita, Kansas
Virginia C. Will, Kansas Hospital Association, Topeka, Kansas
Alexine Larson, Kansas State Nurses Association, Wichita, Kansas
Barbara Elliott, Kansas State Nurses Association, ElDorado, Kansas
Jack Milligan, Kansas Optometric Association, Topeka, Kansas
John Peterson, Kansas Speech and Hearing Association, Topeka, Kansas
Jim Edmonston, Kansas Health Care Association, Topeka, Kansas
Elizabeth Carlson, Board of Healing Arts, Topeka, Kansas
Carl C. Schmitthenner, Kansas State Dental Association, Topeka, Kansas
Doug Johnson, Kansas Pharmaceutical Association, Topeka, Kansas
Ruth C. Dickinson, State Planning and Research, Topeka, Kansas
Joe Harkins, Department of Health and Environment, Topeka, Kansas
Judy Runnels, Kansas State Nurses Association, Topeka, Kansas
Jeff Wampler, Kansas Farm Bureau, Manhattan, Kansas
Jerry Slaughter, Kansas Medical Society, Topeka, Kansas
Jim Mankin, Department of Health and Environment, Topeka, Kansas
Bill Dean, Merrell-National Labs, Prairie Village, Kansas
Florence Nelson, Kansas State Nurses Association, Topeka, Kansas
Carla A. Lee, Nurse Practitioner Program, Wichita State University, Wichita, Kansas

The meeting was called to order at 10:00 a.m. by the Chairman, Representative Michael G. Johnson.

Physician's Assistant Bill

Staff distributed copies of the proposed physician's assistant bill with the amendments requested by the Committee (Attachment A). Staff explained the words "whose name is on the register . . ." were inserted after "person" in line 21, page 1, rather than at the end of New Section 1(c) to clarify that the person referred to is the physician's assistant and not the physician. To clarify that a physician may be responsible for no more than two physician's assistants, the words "at any one time" were deleted in New Section 8, page 5, line 17 pursuant to Committee action. New Section 9, page 5, removes hospitals employing physician's assistants from the numerical restriction of two. Wording was taken from the New York statute as requested by the Committee.

Use of "designated by the hospital", line 21, page 5, was questioned since the responsible physician may not always be designated by the hospital. For example, a physician's assistant may have an established relationship with a physician prior to being employed by the hospital. Irrespective of what a physician's assistant practices or who pays him, the physician's assistant has to practice within the scope authorized by the responsible physician. The hospital might narrow his scope of practice within the hospital but could not expand it. A motion was made and seconded to delete "designated by the hospital", page 5, line 21. Motion carried.

Since the phrase "direction and supervision" is the defined term in the bill, a motion was made and seconded to delete the second "or", page 5, line 16, and insert in lieu thereof "and". Motion carried.

A motion was made and seconded to approve the physician's assistant bill as amended for introduction and prefilng. Motion carried.

Bill Amending Nurse Practice Act

Alexine Larson, R.N., President, Kansas Society of Nursing Service Directors, presented a written statement (Attachment B). In response to comments, Mrs. Larson agreed that training programs for nurses need to be more clearly articulated, and where there are significant differences in skills, differing definitions of nursing practice are needed. She noted that one recommendation coming out of the 1202 Commission's study of nursing is a push for this articulation. In answer to questions, she stated the expanded role nurse needs the protection of the law but the Society's concern is that rules and regulations adopted later may adversely affect hospitals, especially small hospitals. For example, rules and regulations might be adopted requiring hospitals to hire nurses with certain advanced certification for certain units within the hospital. In small hospitals where a nurse may function in several specialized units, this would be a problem. Staff noted that this would take action by another agency, the Department of Health and Environment and could not be done by the Board of Nursing under the proposed bill. In answer to a question, Mrs. Larson stated they had input on rules and regulations developed by the Board of Nursing but she did not think they had input on rules and regulations proposed by the Department of Health and Environment.

Staff distributed copies of the proposed bill amending the Nurse Practice Act (Attachment C).

Staff explained that since the Board of Nursing was being given the authority to develop the expanded role concept a definition of "Advanced registered nurse practitioner" was included, (Section 1(a)). The disclaimer clause was deleted from Section 1(d), page 2, line 8-10 and the definition of "Diagnosing" - Section 1(c) and of "Treatment" - Section 1(g) from the New York statutes were added. Section 1(d) was further amended based on the proposed changes submitted by the Kansas State Nursing Association at the last meeting and to make it consistent with the rest of the bill.

By consensus the second "of", page 2, line 2, is to be changed to "or".

An objection was raised to using the term being defined in the definition of that term. A motion was made and seconded to delete "nursing", page 2, line 4, and to insert in lieu thereof "the process as defined in this section". Motion carried.

Inserting sections 1(e), 1(f), and 1(g) before 1(d) was suggested. Putting these definitions first would seem to make the definition of "practice of nursing" more clear since these terms are used in that definition. Staff stated that usually terms being defined appear in alphabetical order but exceptions are made. No motion to make this change was made.

Concern was expressed that use of the words "not inconsistent with the provisions of this act", line 12, page 2, would be too vague. It was noted that this language is probably not needed since the Attorney General has to approve all rules and regulations. In answer to questions, staff stated the language used in lines 10-12, page 2, is the same as that now used in Section 1(d)(2). The language in the physicians' assistant bill, page 2, lines 13-15 is the language frequently used in other acts. A motion was made and seconded to delete lines 10-12 and lines 21-23 on page 2 and to insert the language used in the physicians' assistant bill, page 2, lines 13-15.

Staff noted that because this change is substantive, it probably should not appear in the definition section. It could be made a separate section and then tied back into the definition of practice of nursing. The person making the motion stated his intent was to make this act consistent with other acts, not to make a substantive change.

Staff noted, as presently written, the authority is a part of the definition of nursing and provides authority for the Board of Nursing to define expanded role functions. If the language is deleted the definition ends with the word "dentistry", line 6, page 2. Motion carried.

Staff noted that "the", line 31, page 2, should be deleted. Staff then raised the question of whether Section 1(g) could be interpreted to mean the right to prescribe drugs since "therapeutic measures" is not a defined term and the disclaimer clause is being deleted. Staff suggested putting in an amended form of the disclaimer clause. Doubt was expressed that the Drug Enforcement Agency would issue a DEA number on the basis that this was specific authority to prescribe. Judy Runnels, Kansas State Nurses Association, stated the Association feels the disclaimer clause prohibits a nurse from doing those things which are considered "nursing" but are not the practice of medicine. The intent is not to allow nurses to prescribe drugs. Consensus was that re-inserting the disclaimer clause would be inconsistent with the bill and would be confusing.

Staff stated New Section 2 would prohibit registered professional nurses without a certificate of qualification from holding themselves out as an advanced registered nurse practitioner and includes language similar to that relating to dental specialties in the Dental Act. A question was raised as to whether "may", page 3, line 8 should be "shall". Staff stated it could be either way. However, making it permissive would allow the Board of Nursing to accept certification in a specialty by the American Nurses Association or experience in lieu of an examination.

After consideration of other fees in the Nurse Practice Act, a motion was made to set the fees in New Section 2 at not less than \$30.00 nor more than \$50.00. Motion carried.

Staff asked if the Committee's intent was that the Board of Nursing carry out lines 4-7, page 3 by rules and regulations since previous action of the Committee would probably not allow them to do so. The Committee action put the authority to adopt rules and regulations in the definition section of the act but did not relate it specifically to the definition of the practice of nursing and there is no section in the Nurse Practices Act giving broad rule making authority to the Board. In answer to questions, the staff stated passage of an act to be carried out by a Board does not automatically give that Board the authority to adopt rules and regulations. The Attorney General has stated that a board must have statutory authority to adopt rules and regulations and that authority must be related to specifics.

A motion was made and seconded to delete the reference to rule making authority in Section 1 and to insert a new section preceding Section 7 giving the Board of Nursing general authority to adopt rules and regulations to carry out the provisions of the act.

Staff noted that general authority to adopt rules and regulations is usually permissive but adopting rules and regulations can be made mandatory in specific sections of an act. The latter approach has been adopted by the Joint Committee on Rules and Regulations. The Joint Committee feels giving a broad general authority has led to the promulgation of long lists of rules and regulations so this authority should be more specific and indicate what the Board ought to be doing by rules and regulations. The problem of making sure the authority was included in each section in which it was needed was noted. Staff clarified that the intent of the motion is to make the authority broad enough to apply to the total article. Motion carried.

Staff noted that the changes on pages 3-7 inserted the new category of nurse in the appropriate sections of the Nurse Practices Act.

In answer to a question, staff stated that if "and" instead of "or" were used after "registered" on page 4, line 5, all nurses would be required to have a certificate of qualification since this clause applies to all categories of nurses included in this section.

Staff noted that the word "registered", page 4, line 5, was probably not needed. A motion was made and seconded to delete the word "registered" in line 5, page 4. Motion carried.

A motion was made and seconded to add "certificate of qualification" in Section 6(a), page 7. Motion carried.

In answer to a question, staff stated that anyone violating Section 6(a) could also be prosecuted under the fraud statutes.

Referring to page 7, lines 22-28, it was noted the policy of the Legislature is to use the class of misdemeanor to denote fines and imprisonment. A motion was made and seconded to amend Section 6(f), page 7, by deleting language specifying the amount of the fine and time of imprisonment and using class C misdemeanor for the first offense and class B misdemeanor for each subsequent offense. Motion carried.

Staff is to mail a draft of the amended bill to Committee members prior to the next meeting.

The meeting was recessed for lunch at 12:05 p.m. and was reconvened at 1:30 p.m.

Minutes

A motion was made and seconded to enter in the minutes of this meeting the following clarification of page 6, paragraph 4, lines 5-6 of the October 18 and 19 minutes: the intent of the Committee was to recommend that no action be taken on the licensure bills considered by the Committee until the Statewide Health Coordinating Council has completed its study and submitted its recommendations. Motion carried. A motion was made and seconded to approve the minutes subject to the clarification noted above. Motion carried.

Credentialing Study Bill

Staff distributed copies of a proposed bill directing the Statewide Health Coordinating Council to make a study of criteria for the credentialing of health care personnel and requiring a report be submitted to the Legislature (Attachment D). Staff stated a definition of "credentialing" based on the definition used by HEW was included (lines 13-16) since "credentialing" is not a word. Publication in the state paper was used as the effective date to give additional time for the Statewide Health Coordinating Council to conduct the study. Staff noted that in line 10, "licensed" should be changed to "credentialed".

Since recommendations included in the report could affect the operation of many agencies in the executive branch, a motion was made and seconded to insert "to the Governor and" and "same" in line 19. Motion carried.

In a discussion of whether or not to include the bracketed material in lines 10 and 11, the following point was made: this could imply that one set of criteria was to be developed for groups already credentialed and another set for those who are presently requesting or will in the future request to be credentialed; the idea is not that the Statewide Health Coordinating Council will look at specific groups or how their recommendations will apply to any specific group; the intent is the development of criteria which should be adopted; this criteria can then be applied to groups already credentialed as well as those asking to be credentialed. A motion was made and seconded to insert "all" before "health" in line 10 and to strike the bracketed material in lines 10-11. Motion carried.

It was clarified that the intent of lines 11-12 was to make a distinction between the authorization for credentialing which is a legislative responsibility and the administration of the credentialing program after it is authorized. A motion was made and seconded to approve the credentialing study bill as amended for introduction and prefiling. Motion carried.

Committee Report - Proposal 60 - Physician Extenders

The Committee Report is to include a list of the groups appearing before the Committee. The section of the report on physician's assistants is to include a discussion of the bill with testimony, Committee discussion and Committee intent on the following points: the relationship between the physician and the physician's assistant; direction and supervision; prescribing of drugs; limitation of the number of assistants for whom a physician can be responsible. The Committee rationale for change is to be given. The report is to emphasize the nature of the relationship between the physician and the physician's assistant and discourage any change that would weaken or dilute this relationship; explain that the Committee did not spell out what duties a physician's assistant could or could not perform because other states had found this approach to be too confining and too difficult to interpret; note that there is no evidence physician's charges are less if a patient is seen by a physician's assistant and that the Committee does not view physician's assistants as a cut rate branch of medical practice.

In the section of the report relating to nurses, the term "expanded role nurse" is to be used with the explanation that it includes both the nurse practitioner and nurse clinician. Reference is to be made to the program at Wichita State and at Kansas University and the plans for one at Fort Hays University. This section is to include a discussion of the bill amending the Nurse Practice Act, with a summary of testimony, Committee discussion, and Committee intent and the rationale for the changes being made.

An outline of the curriculum for each program, admission requirements, and a summary of the qualifications and backgrounds of students accepted is to be included in each section.

The report is to note that the Committee was concerned with health care personnel shortages and maldistribution and although these bills do not speak directly to these issues, it is hoped they will assist in alleviating the problem. The differential in salaries between physician's assistants practicing in rural and urban areas is to be included.

The report is to note the distinction between the physician's assistants and the expanded role nurse, i.e., the latter is an extension of nursing and the other is an extension of the doctor.

The next meeting of the Committee will be November 22, 1977. Final action will be taken on the bill amending the Nurse Practices Act.

The meeting was adjourned at 2:30 p.m.

Prepared by Emalene Correll

Approved by Committee on:

(date)

EC/dmb

BILL NO. _____

By Special Committee on Public Health and Welfare

1 AN ACT concerning physicians' assistants; providing for the
2 registration thereof; granting certain powers, duties and
3 functions to the state board of healing arts; amending
4 K.S.A. 1977 Supp. 65-2896, 65-2896a, 65-2896b and 65-2896c
5 and repealing the existing sections; and also repealing
6 K.S.A. 1977 Supp. 65-2897.

7 Be it enacted by the Legislature of the State of Kansas:

8 New Section 1. The following words and phrases when used in
9 this act shall for the purpose of this act, have the meanings
10 respectively ascribed to them in this section.

11 (a) "Direction and supervision" means the guidance,
12 direction and coordination of activities of a physicians'
13 assistant by his or her responsible physician, whether written or
14 verbal, whether immediate or by prior arrangement, but does not
15 necessarily mean that the continuous, immediate, or physical
16 presence of the responsible physician is required during the
17 performance of the assistant.

18 (b) "Physician" means any person licensed by the state
19 board of healing arts to practice medicine and surgery.

20 (c) "Physicians' assistant" means a skilled person whose
21 name is on the register maintained by the state board of healing
22 arts and is qualified by academic training to provide patient
23 services under the direction and supervision of a physician
24 licensed to practice medicine and surgery who is responsible for
25 the performance of that assistant.

26 (d) "Responsible physician" means a physician who has
27 accepted the ultimate responsibility for the actions of the
28 physicians' assistant under his or her direction and supervision.

29 Sec. 2. K.S.A. 1977 Supp. 65-2896 is hereby amended to read

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1 as follows: 65-2896. The state board of healing arts shall
2 maintain a register of the names of physicians' assistants who
3 ~~request--to--have--their--names--placed--on--the--register--showing--the~~
4 ~~record--of--training--held--by--each--person--so--registered--and--such~~
5 ~~person's--current--address~~ registered in accordance with the
6 provisions of K.S.A. 1977 Supp. 65-2896a, as amended. A fee of
7 fifteen dollars (\$15) shall be charged for the initial
8 registration. All registrations shall be renewed annually and
9 any renewal thereof shall not be more than ten dollars (\$10).
10 The executive secretary of the state board of healing arts shall
11 remit all moneys received by or for him or her from the
12 provisions of this act in accordance with K.S.A. 1977 Supp.
13 65-2855. The state board of healing arts may adopt rules and
14 regulations necessary to carry out the provisions of this act and
15 the act of which this section is amendatory. ~~As used in this act~~
16 ~~the term "physicians' assistant" shall mean a skilled person~~
17 ~~qualified by academic training to provide patient services under~~
18 ~~the direction and supervision of a physician licensed to practice~~
19 ~~medicine and surgery who is responsible for the performance of~~
20 ~~that assistant.~~

21 Sec. 3. K.S.A. 1977 Supp. 65-2896a is hereby amended to
22 read as follows: 65-2896a. ~~From and after the effective date of~~
23 ~~this act;~~ (a) No person's name shall be entered on the register
24 of physicians' assistants by the state board of healing arts
25 unless such person shall have:

26 (a) (1) Presented to the state board of healing arts proof
27 of graduation from an accredited high school or the equivalent
28 thereof; and

29 (b) (2) presented to the state board of healing arts proof
30 that the applicant has successfully completed a course of
31 education and training approved by the state board of healing
32 arts for the education and training of physicians' assistants.
33 Such course of education and training shall be substantially in
34 conformity with educational and training programs for physicians'
35 assistants approved by the state board of regents; or

1 (e) (3) passed an examination ~~prescribed~~ approved by the
2 state board of healing arts covering subjects incident to the
3 education and training of physicians' assistants.

4 (b) A physician's assistant shall at the time of initial
5 registration and any renewal thereof present to the state board
6 of healing arts the name and address of his or her responsible
7 physician. Whenever a physician's assistant shall cease to be
8 employed by his or her responsible physician, such responsible
9 physician shall notify the state board of healing arts, the state
10 board of pharmacy and the federal drug enforcement administration
11 or its successor agency of such termination. Whenever a
12 physician's assistant shall be employed by a responsible
13 physician prior to the renewal of the physician's assistant's
14 annual registration, such responsible physician shall notify the
15 state board of healing arts, the state board of pharmacy and the
16 federal drug enforcement administration or its successor agency
17 of such employment. All such notifications shall be given to the
18 state board of healing arts, the state board of pharmacy and the
19 federal drug enforcement administration or its successor agency
20 as soon as practicable but not to exceed a period of ten (10)
21 days after employment or termination.

22 (c) On and after July 1, 1979, the state board of healing
23 arts shall require every physician's assistant to submit with the
24 renewal application evidence of satisfactory completion of a
25 program of continuing education required by the state board of
26 healing arts. The state board of healing arts by duly adopted
27 rules and regulations shall establish the requirements for such
28 program of continuing education as soon as possible after the
29 effective date of this act. In establishing such requirements
30 the state board of healing arts shall consider any existing
31 programs of continuing education currently being offered to
32 physicians' assistants.

33 (d) A person whose name has been entered on the register of
34 physicians' assistants prior to the effective date of this act
35 shall not be subject to the provisions of subsection (a) of this

1 section, unless such person's name has been removed from the
2 register of physicians' assistants pursuant to the provisions of
3 K.S.A. ~~1975~~ 1977 Supp. 65-2896b, as amended.

4 Sec. 4. K.S.A. 1977 Supp. 65-2896b is hereby amended to
5 read as follows: 65-2896b. The board of healing arts may remove
6 a person's name from the register of physicians' assistants for
7 any of the following reasons:

8 (a) The person whose name is entered on the register of
9 physicians' assistants requests or consents to the removal
10 thereof; or

11 (b) the board of healing arts determines that the person
12 whose name is entered on the register of physicians' assistants
13 has not been employed as a physicians' assistant or as a teacher
14 or instructor of persons being educated and trained as to become
15 a physicians' assistant in a course of education and training
16 approved by the state board of healing arts under K.S.A. ~~1975~~
17 1977 Supp. 65-2896a, as amended, at some time during the five
18 years immediately preceding the date of such determination.

19 Sec. 5. K.S.A. 1977 Supp. 65-2896c is hereby amended to
20 read as follows: 65-2896c. (a) ~~From--and--after--the--effective~~
21 ~~date--of--this--act,~~ No person shall use the title physician's
22 assistant or words of like effect or the abbreviation "P.A." nor
23 shall any person represent himself or herself to be a physician's
24 assistant unless such person's name is entered on the register of
25 the names of physicians' assistants in accordance with the
26 provisions of this act.

27 (b) Any person violating the provisions of this section
28 shall be guilty of a class C misdemeanor.

29 New Sec. 6. A person whose name has been entered on the
30 register of physicians' assistants may perform, only under the
31 direction and supervision of a physician, acts which constitute
32 the practice of medicine and surgery to the extent and in the
33 manner authorized by the physician responsible for the
34 physicians' assistant. Before a physicians' assistant shall
35 perform under the direction and supervision of a physician, such

1 physicians' assistant shall be identified to the patient and
2 others involved in providing the patient services as being a
3 physicians' assistant to the responsible physician.

4 New Sec. 7. Prescriptions may be written by physicians'
5 assistants as provided in this section when authorized by the
6 responsible physician except for those controlled substances that
7 are listed on schedule II under federal and Kansas uniform
8 controlled substances acts. The prescription shall include the
9 name, address and telephone number of the responsible physician.
10 The prescription shall also bear the name and the address of the
11 patient and the date on which the prescription was written. The
12 physicians' assistant shall sign his or her name to such
13 prescription followed by the letters "P.A." and his or her
14 federal drug enforcement administration registration number.

15 New Sec. 8. No responsible physician shall have under his
16 or her direction or supervision more than two (2) physicians'
17 assistants.

18 New Sec. 9. Nothing in this act shall prohibit a hospital
19 from employing physicians' assistants, provided such physicians'
20 assistants shall be under the direction and supervision of a
21 responsible physician designated by the hospital. The numerical
22 limitation of section 8 of this act shall not apply to services
23 performed in a hospital.

24 Sec. 10. K.S.A. 1977 Supp. 65-2896, 65-2896a, 65-2896b,
25 65-2896c and 65-2897 are hereby repealed.

26 Sec. 11. This act shall take effect and be in force from
27 and after its publication in the statute book.



ST. FRANCIS HOSPITAL

929 N. St. Francis, P.O. Box 1358, Wichita, Kansas, 67201

TO Special Committee on Public Health and Welfare

FROM Mrs. A. Larson, R.N.
President of Kansas Society of Nursing Service Directors

DATE November 1, 1977

SUBJECT PROPOSED CHANGES IN THE NURSE PRACTICE ACT

The Board of Directors of the Kansas Society of Nursing Service Directors met and discussed the proposed changes in the Nurse Practice Act and the rationale for the changes. We agree that the Nurse Practice Act needs to be updated and changed to provide for the expanded role of the nurse and the additional responsibilities that they have assumed.

We are concerned with certification as it will apply to hospital nurses. We agree with, and see the need for, certification for nursing specialities in order that the nurse practitioner can practice and perform in that speciality area; as the family nurse practitioner. However, we feel that certification must be optional for the nurse practitioner. If certification were required for nursing specialities, the nurses who perform in many areas of care in the hospital might be required to have several certifications, which could have a decisive impact on staffing and hospital costs in both the large and small hospital. We agree that all nurses should not be legally permitted to practice in an expanded role, but should obtain certification because of additional education and experience beyond a basic program.

It is our sincere hope that the quantity and quality of care of all consumers in Kansas will be improved by the proposed revisions.

Respectfully submitted,

*Alexine Larson RN
Asst. Administrator,
Director of Nursing Services*

BILL NO. _____

By Special Committee on Public Health and Welfare

1 AN ACT relating to the examination, licensure, certification and
2 regulation of nursing; amending K.S.A. 1977 Supp. 65-1113,
3 65-1114, 65-1120, 65-1121, and 65-1122 and repealing the
4 existing sections.

5 Be it enacted by the Legislature of the State of Kansas:

6 Section 1. K.S.A. 1977 Supp. 65-1113 is hereby amended to
7 read as follows: 65-1113. When used in this act:

8 (a) "Advanced registered nurse practitioner" or "ARNP"
9 means a registered professional nurse who is certified by the
10 board to function in an expanded role.

11 ~~(a)~~ (b) "Board" means the board of nursing.

12 (c) "Diagnosing" in the context of nursing practice means
13 that identification of and discrimination between physical and
14 psychosocial signs and symptoms essential to effective execution
15 and management of the nursing regimen and shall be construed as
16 distinct from a medical diagnosis.

17 ~~(b)~~ (d) Practice of nursing. (1) The practice of
18 professional nursing means--the--performance as performed by a
19 registered professional nurse for compensation or gratuitously,
20 except as permitted by K.S.A. 1975 1977 Supp. 65-1124 and
21 amendments thereto, of--any--act--in--the--observation, is a process
22 in which substantial specialized knowledge derived from the
23 biological, physical, and behavioral sciences is applied to: the
24 care,--and--counsel--of--the--ill,--injured,--or--infirm,--or--in--the
25 maintenance--of--health--or--prevention--of--illness--of--others,--or--in
26 the--supervision caring, diagnosing, treating, counseling and
27 health teaching of other--personnel,--or--the--administration--of
28 medications--and--treatments persons who are experiencing changes

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1 in the normal health processes or who require assistance in the
2 maintenance of health of the prevention or management of illness,
3 injury or infirmity; administration, supervision or teaching of
4 nursing; and the execution of the medical regimen as prescribed
5 by a person licensed to practice medicine and surgery or a person
6 licensed to practice dentistry; ~~requiring substantial specialized~~
7 ~~judgment--and skill and based on knowledge and application of the~~
8 ~~principles of--biological,--physical,--and--social--science.--The~~
9 ~~foregoing--shall--not--be--deemed--to--include--acts--of--diagnosis--or~~
10 ~~prescription--of--therapeutic--or--corrective--measures~~ and such
11 further functions as may be defined in the rules and regulations
12 of the board not inconsistent with the provisions of this act.

13 (2) The practice of nursing as a licensed practical nurse means
14 the performance for compensation or gratuitously, except as
15 permitted by K.S.A. 1975 1977 Supp. 65-1124 and any amendments
16 thereto, of nursing tasks and responsibilities based on
17 acceptable educational preparation within the framework of
18 supportive and restorative care under the direction of a
19 registered professional nurse or a person licensed to practice
20 medicine and surgery or a person licensed to practice dentistry
21 and such further functions as may be defined in the rules and
22 regulations of the board not inconsistent with the provisions of
23 this act.

24 ~~(e)~~ (e) A "professional nurse" means a person who is
25 licensed to practice professional nursing as defined in paragraph
26 (b)(1) of this section.

27 ~~(f)~~ (f) A "practical nurse" means a person who is licensed
28 to practice practical nursing as defined in paragraph (b)(2) of
29 this section.

30 (d) "Treating" means the selecting and performing of those
31 therapeutic measures essential to the effectively executing and
32 managing the nursing regimen, and any prescribed medical regimen.

33 New Sec. 2. No registered professional nurse shall announce
34 or hold himself or herself out to the public as an advanced
35 registered nurse practitioner unless he or she has complied with

1 additional requirements established by the board, and has been
2 issued a certificate of qualification authorizing him or her to
3 do so.

4 The board may establish higher standards and additional
5 requirements for any registered professional nurse who desires to
6 announce or hold himself or herself out to the public as being
7 qualified as an advanced registered nurse practitioner. The
8 board may give such examinations as it deems necessary to
9 determine the qualifications of applicants, and may secure such
10 assistance as the board may deem advisable in determining the
11 qualifications of applicants.

12 Upon application to the board of any registered professional
13 nurses in this state, the board may issue a certificate of
14 qualification to such nurse authorizing the applicant to hold
15 himself or herself out or to announce to the public that he or
16 she is an advanced registered nurse practitioner. The
17 application to the board shall be upon such form and contain such
18 information as the board may require and shall be accompanied by
19 a fee, to be determined by rules and regulations adopted by the
20 board, to assist in defraying the expenses in connection with the
21 issuance of said certificates of qualification, but said fee
22 shall not be less than _____ dollars (\$) nor more than
23 _____ dollars (\$). The secretary-treasurer of the board
24 shall remit all moneys received by or for him or her pursuant to
25 this section to the state treasurer as provided by K.S.A. 1977
26 Supp. 74-1108.

27 Sec. 3. K.S.A. 1977 Supp. 65-1114 is hereby amended to read
28 as follows: 65-1114. It shall be unlawful for any person: (a)
29 To practice or to offer to practice professional nursing in this
30 state, or (b) to use any title, abbreviation, letters, figures,
31 sign, card or device to indicate that any person is a registered
32 professional nurse, or (c) to practice or offer to practice
33 practical nursing in this state, or (d) to use any title,
34 abbreviation, letters, figures, sign, card or device to indicate
35 that any person is a licensed practical nurse, or (e) to practice

1 or offer to practice as an advanced registered nurse practitioner
2 in this state, or (f) to use any title, abbreviation, letters,
3 figures, sign, card or device to indicate that any person is an
4 advanced registered nurse practitioner, unless such person has
5 been duly licensed and, registered or issued a certificate of
6 qualification under the provisions of this act.

7 Sec. 4. K.S.A. 1977 Supp. 65-1120 is hereby amended to read
8 as follows: 65-1120. (a) The board shall have the power to
9 deny, revoke or suspend any license or certificate of
10 qualification to practice nursing as a registered professional
11 nurse ~~or~~, as a licensed practical nurse or as an advanced
12 registered nurse practitioner that are issued by the board or
13 applied for in accordance with the provisions of this act in the
14 event that the applicant or licensee is found after hearing to
15 have been: (1) Guilty of fraud or deceit in procuring or
16 attempting to procure a license to practice nursing; (2) guilty
17 of a felony if the board determines, after investigation, that
18 such person has not been sufficiently rehabilitated to warrant
19 the public trust, or of any offense involving moral turpitude;
20 (3) unfit or incompetent by reason of negligent habits or other
21 causes; (4) habitually intemperate or addicted to the use of
22 habit forming drugs; (5) mentally incompetent; (6) guilty of
23 unprofessional conduct; (7) has willfully or repeatedly violated
24 any of the provisions of this act.

25 (b) Proceedings. Upon filing of a sworn complaint with the
26 board charging a person with having been guilty of any of the
27 unlawful practices specified in (a), above, two (2) or more
28 members of the board shall immediately investigate such charges,
29 or the board, after investigation, may institute charges. In the
30 event such investigation, in the opinion of the board, shall
31 reveal reasonable grounds for believing the applicant or licensee
32 is guilty of the charges, the board shall fix a time and place
33 for a hearing thereof and shall cause a copy of the charges,
34 together with a notice of the time and place fixed for hearing,
35 to be personally served on the accused at least twenty (20) days

1 prior to the time fixed for hearing. When personal service cannot
2 be effected and such fact is certified on oath by any person duly
3 authorized by the board to make service, the board shall cause to
4 be published once in each of two (2) successive weeks, a notice
5 of the hearing in a newspaper published in the county in which
6 the accused last resided, according to the records of the board,
7 and shall mail a copy of the charges and of such notice to the
8 accused at his or her last known address. When publication of
9 notice is necessary, the date of hearing shall not be less than
10 twenty (20) days after the last date of publication of the
11 notice. At the hearing, the accused shall have the right to
12 appear personally or by counsel or both, to produce witnesses and
13 evidence on his or her behalf, to cross-examine witnesses, and to
14 have subpoenas issued by the board. At the hearing the board
15 shall administer oaths as may be necessary for the proper conduct
16 of the proceedings.

17 (c) Witnesses. No person shall be excused from testifying
18 in any proceedings before the board under this act or in any
19 civil proceedings under this act before a court of competent
20 jurisdiction on the ground that such testimony may incriminate
21 the person testifying, but such testimony shall not be used
22 against such person for any prosecution for any crime under the
23 laws of this state except the crime of perjury as defined by
24 K.S.A. 21-3805 and amendments thereto.

25 Sec. 5. K.S.A. 1977 Supp. 65-1121 is hereby amended to read
26 as follows: 65-1121. Any person suffering legal wrong because
27 of any order of the board refusing to issue, or revoking or
28 suspending a nursing license or certificate of qualification, and
29 any school of nursing suffering a legal wrong because of an order
30 of the board refusing to accredit a school of nursing or revoking
31 or suspending accreditation previously granted may:

32 (a) Apply to the board for a rehearing in respect to such
33 matters within ten (10) days from the date of the service of such
34 order, and the board shall grant or deny such rehearing within
35 ten (10) days from the date application therefor shall be filed

1 with it. If a rehearing or reconsideration be granted, the matter
2 shall be determined by the board within thirty (30) days after
3 the same shall be submitted. No cause of action arising out of
4 any order of the board shall accrue to any party unless such
5 party shall make application for rehearing as herein provided.

6 (b) Appeal to a court of competent jurisdiction from any
7 such order of the board by petition filed in such court within
8 thirty (30) days of service of the order from which appeal is
9 taken and serving a copy of the petition upon the secretary of
10 the board.

11 Such petition shall specifically state the grounds for
12 appeal. The secretary of the board shall promptly certify to the
13 clerk of such court a correct and full copy of the record of the
14 board in connection with the order, including a transcript of
15 evidence if taken, its findings of fact, conclusions and a copy
16 of the order. The court shall review the record of the board's
17 proceedings of such order or decision and, in event it finds such
18 order or decision unlawful, arbitrary or unreasonable, may vacate
19 or set aside such order. Procedure upon trial of such proceedings
20 shall be the same as in other civil actions, but no party shall
21 urge or rely upon any ground not set forth in its application for
22 rehearing. The filing or pendency of a petition for review shall
23 not in itself stay or suspend the operation of any order or
24 decision of the board, but, during the pendency of such
25 proceedings the court, in its discretion, may stay or suspend, in
26 whole or in part, the order or decision of the board. No order of
27 the court so staying or suspending an order or decision of the
28 board shall be made by the court otherwise than on five (5) days'
29 notice and after hearing and shall be based upon a finding by the
30 court from the evidence that great or irreparable damage would
31 result to the petitioner in the absence of such stay or
32 suspension.

33 Sec. 6. K.S.A. 1977 Supp. 65-1122 is hereby amended to read
34 as follows: 65-1122. It shall be a misdemeanor for any person,
35 firm, corporation or association to:

1 (a) Sell or fraudulently obtain or furnish any nursing
2 diploma, license or record or aid or abet therein;

3 (b) practice professional nursing ~~or~~, practical nursing or
4 practice as an advanced registered nurse practitioner, as defined
5 by K.S.A. ~~1975~~ 1977 Supp. 65-1113 and amendments thereto, unless
6 duly licensed or certified to do so;

7 (c) use in connection with his or her name any designation
8 implying that he or she is a registered professional nurse ~~or~~, a
9 licensed practical nurse or an advanced registered nurse
10 practitioner unless duly licensed or certified so to practice
11 under the provisions of this act, and such license or certificate
12 is then in full force;

13 (d) practice professional nursing ~~or~~, practical nursing or
14 as an advanced registered nurse practitioner during the time a
15 license or certificate issued under the provisions of this act
16 shall have expired or shall have been suspended or revoked;

17 (e) represent that a school for nursing is accredited for
18 educating either professional nurses or practical nurses, unless
19 such school has been duly accredited by the board and such
20 accreditation is then in full force; or

21 (f) violate any provisions of this act.

22 Such offense shall be punishable by a fine of not more than
23 five hundred dollars (\$500) or by imprisonment of not more than
24 one month, or by both such fine and imprisonment, for the first
25 offense. Each subsequent offense shall be punishable by a fine of
26 not to exceed one thousand dollars (\$1,000) or by imprisonment of
27 not more than six (6) months, or by both such fine and
28 imprisonment.

29 Sec. 7. K.S.A. 1977 Supp. 65-1113, 65-1114, 65-1120,
30 65-1121 and 65-1122 are hereby repealed.

31 Sec. 8. This act shall take effect and be in force from and
32 after its publication in the statute book.

BILL NO. _____

By Special Committee on Public Health and Welfare

1 AN ACT directing the statewide health coordinating council to
2 make a study of criteria for credentialing of health care
3 personnel; and requiring a report to the legislature.

4 Be it enacted by the Legislature of the State of Kansas:

5 Section 1. (a) The statewide health coordinating council is
6 hereby authorized and directed to make a study of criteria for
7 credentialing of health care personnel in the state of Kansas.
8 The statewide health coordinating council shall recommend, as a
9 result of this study, specific criteria for the credentialing of
10 health care personnel (those already licensed as well as health
11 care personnel asking to be credentialed) and the state agency to
12 be responsible for administration of the credentialing program.

13 (b) For purposes of this section, "credentialing" means the
14 formal recognition of professional or technical competence
15 through the process of accreditation, certification, registration
16 or licensure.

17 (c) The statewide health coordinating council shall report
18 its findings and recommendations based on this study and shall
19 transmit the same to the legislature on or before December 1,
20 1973.

21 Sec. 2. This act shall take effect and be in force from and
22 after its publication in the official state paper.

Atch. D