

M I N U T E S

SPECIAL COMMITTEE ON PUBLIC HEALTH AND WELFARE

November 29, 1977Room 527 - State HouseMembers Present

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

Staff Present

Emalene Correll, Kansas Legislative Research Department
Bill Wolff, Kansas Legislative Research Department
Sherman Parks, Jr., Revisor of Statutes Office

Others Present

Marie L. Templer, R.N., Kansas State Nurses Association, Alma, Kansas
Judy Perrin, Kansas Chiropractic Association, Topeka, Kansas
Doug Johnson, Kansas Pharmaceutical Association, Topeka, Kansas
Judy Runnels, Kansas State Nurses Association, Topeka, Kansas
Katie Pyle, Kansas for the Improvement of Nursing Homes, Topeka, Kansas
Florence J. Nelson, Kansas State Nurses Association, Topeka, Kansas
Joyce M. Olson, Kansas State Nurses Association, Topeka, Kansas
Virginia C. Will, Kansas Hospital Association, Topeka, Kansas
Carl C. Schmitthener, Kansas State Dental Association, Topeka, Kansas
Dorothy Woodin, Department of Health and Environment, Topeka, Kansas
John Peterson, Kansas Speech and Hearing Association, Topeka, Kansas
Jean M. Specht, Kansas State Nurses Association, Topeka, Kansas
Elizabeth W. Carlson, Kansas Board of Healing Arts, Topeka, Kansas
Joe Harkins, Department of Health and Environment, Topeka, Kansas
Jerry Slaughter, Kansas Medical Society, Topeka, Kansas

The meeting was called to order at 10:05 a.m. by the Chairman, Representative Michael G. Johnson.

Nurse Practices Act

Staff distributed a draft of the proposed bill which included amendments made by the Committee at its previous meeting (Attachment A). Staff reviewed the motions made at the previous meeting noting changes made in the bill draft to comply with these motions. Staff noted the directions for New Section 7 (page 7) was to use the standard phrase used in other statutes. However, six different phrases are used in other statutes. The language in New Section 7 is based on a review of problems which have arisen previously and discussion with the staff of the Rules and Regulations Committee. This language would seem to give the Legislature the most authority when looking at the rules and regulations to see if the Board had in fact carried out the intent of the Legislature. Staff also noted that contrary to what they had said at an earlier meeting, the Board of Nursing is given general rules and regulation authority in Chapter 74 which sets up the Board. This may or may not take care of the problem the Committee has discussed previously. Concern was expressed over the word "purpose" since this might let the Board go beyond the authority given them in the Act. Concern was also expressed over the word "enforce" which has a punitive rather than a remedial connotation.

A motion was made and seconded to amend the proposed draft, page 7, lines 27-28, by deleting "the purpose and enforce". Motion carried.

Referring to New Section 2, it was noted that if the Committee wished this to be a part of the Nurse Practices Act, language so stipulating might be needed. A motion was made and seconded to add language if necessary to make sure it is a part of the Nurse Practices Act. Motion carried.

Referring to page 7, line 24, it was noted "subsequent" would be a better word than "second". A motion was made and seconded to amend the proposed draft page 7, line 24, by deleting "second defense" and inserting in lieu thereof "subsequent offenses". Motion carried.

Staff pointed out that there is no provision for advanced registered nurse practitioners to renew their certificate of qualification. Another section, not included in this proposed bill draft, provides for nurses to renew their license every two years. In answer to a question, staff stated there was no other certificates of qualification in the Nurse Practices Act. A motion was made and seconded to amend K.S.A. 65-1117 to include "certificates of qualification" and to include the amended section in the Committee bill. Motion carried.

Noting that the term "nursing" is used in the definition of nursing on page 2, a motion was made and seconded to amend the proposed bill draft on page 2, line 12, by deleting "nursing" and after "responsibilities" inserting "as defined in subsection (d)(1) and (d)(2) of this section. Motion carried. Staff pointed out that this motion would allow licensed practical nurses to do the same things as professional nurses and suggested deleting (d)(1) from the amendment. By consensus (d)(1) is to be deleted from the motion.

Suggesting that definitions of words should precede their use in other definitions, a motion was made and seconded to amend the proposed bill draft by inserting subsection (g) on page 2 after subsection (c) on page 1 and renumbering the subsections accordingly. Motion carried.

Pointing out that when the Healing Arts Act was amended, the authority of the Board of Healing Arts was broadened so a license could be limited, i.e., a physician might be able to carry out a general practice but could not do surgery, a motion was made and seconded to amend the proposed bill draft page 4, line 4, after "revoke" by inserting "limit". In answer to questions, the Committee member making the motion stated a nurse might have a slight tremor and should not withdraw blood; usually complaints come to the Board and action can then be taken as provided in Section 4. Motion carried.

The following motions were made to correct grammatical errors. A motion was made and seconded to amend the proposed bill draft page 4, line 7, by deleting "are" and inserting in lieu thereof "is". Motion carried. A motion was made and seconded to amend the proposed bill draft page 3, line 9, by deleting "nurses" and inserting in lieu thereof "nurse". Motion carried.

A motion was made and seconded to recommend Attachment A as amended for introduction. Motion carried.

Credentialing

Staff distributed a draft of the proposed bill including amendments made by previous Committee action (Attachment B). A question was raised as to whether Section 1 carried out the intent of the Committee as reflected in the minutes of the last meeting. In answer to a question, it was noted the intent was not to necessarily limit the responsible agency to an existing state agency.

A motion was made and seconded to amend the proposed draft in line 6 by deleting "the" and inserting in lieu thereof, "a". In answer to a question, it was stated that the language of this bill could not be construed to mean the Legislature was abdicating its responsibility for credentialing since the Statewide Health Coordinating Council could only make recommendations. Motion carried.

Staff noted that a footnote to the definition of "credentialing" in the HEW report stated the term did not refer to accreditation or registration. Accreditation is usually done by a national accrediting agency and not by the Legislature or a state board. Kansas statutes do use the term registration. A motion was made and seconded to amend the proposed bill draft in line 10 by deleting "accreditation". Motion carried.

A motion was made and seconded to recommend Attachment B as amended for introduction and to prefile the bill. Motion carried.

Physicians' Assistants

Staff distributed a draft of the proposed bill including amendments made by prior Committee action for the Committee's information (Attachment C). In addition, on page 5, line 16, "or" was changed to "and" to make it consistent with the rest of the bill.

The Chairman referred to two letters from the Kansas Hospital Association which had been distributed to Committee members (Attachments D and E). After determining that a hospital board has authority over who practices in or is employed by the hospital, consensus was not to further amend the bills proposed for introduction.

Committee Reports

Proposal No. 59 - Staff distributed a draft of the proposed report (Attachment F). A motion was made to amend the report, page 7, lines 6 and 7, by deleting "or modification of existing licensing" and page 7, line 6, before "new" by inserting "further". Motion carried.

None
Proposal No. 60 - Staff distributed a draft of the proposed report (Attachment G). By consensus a footnote explaining what the various drug schedules mean is to be added on page 7. By consensus the following amendments were made: page 4, lines 23 and 24, delete "medically underserved areas" and insert in lieu thereof "relatively rural settings"; page 4, line 26, delete "medically underserved" and insert in lieu thereof "relatively rural"; page 7, line 3, delete "following" and insert in lieu thereof "to allowing"; page 8, line 8, change "1976" to "1977". The bracketed material on page 5 is to be included in the report. The draft will also reflect action taken by the Committee today.

A motion was made and seconded to adopt the Committee reports as amended for Proposals 59 and 60.

Minutes

The following change is to be made in the minutes of the November 2, 1977, meeting: page 2, next to last paragraph, line 2, change "limiting" to "vague". A motion was made and seconded to approve the minutes for November 2, 1977, as amended. Motion carried.

The meeting was adjourned at 12:00 noon.

Prepared by Emalene Correll

Approved by Committee on:

January 1978
(date)

EC/dmb

_____ BILL NO. _____

By Special Committee on Public Health and Welfare

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

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

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

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

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

7 (c) "Diagnosing" in the context of nursing practice means
8 that identification of and discrimination between physical and
9 psychosocial signs and symptoms essential to effective execution
10 and management of the nursing regimen and shall be construed as
11 distinct from a medical diagnosis.

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

Rev. A

1 infirmity; administration, supervision or teaching of the process
2 as defined in this section; and the execution of the medical
3 regimen as prescribed by a person licensed to practice medicine
4 and surgery or a person licensed to practice dentistry; ~~requiring~~
5 ~~substantial specialized judgment and skill and based on knowledge~~
6 ~~and application of the principles of biological, physical, and~~
7 ~~social science. The foregoing shall not be deemed to include acts~~
8 ~~of diagnosis or prescription of therapeutic or corrective mea-~~
9 ~~sures.~~ (2) The practice of nursing as a licensed practical nurse
10 means the performance for compensation or gratuitously, except as
11 permitted by K.S.A. ~~1975~~ 1977 Supp. 65-1124 and any amendments
12 thereto, of nursing tasks and responsibilities based on accept-
13 able educational preparation within the framework of supportive
14 and restorative care under the direction of a registered profes-
15 sional nurse or a person licensed to practice medicine and sur-
16 gery or a person licensed to practice dentistry ~~and such further~~
17 ~~functions as may be defined in the rules and regulations of the~~
18 ~~board not inconsistent with the provisions of this act.~~

19 ~~(e)~~ (e) A "professional nurse" means a person who is li-
20 censed to practice professional nursing as defined in paragraph
21 (b)(1) of this section.

22 ~~(d)~~ (f) A "practical nurse" means a person who is licensed
23 to practice practical nursing as defined in paragraph (b)(2) of
24 this section.

25 (g) "Treating" means the selecting and performing of those
26 therapeutic measures essential to effective execution and manage-
27 ment of the nursing regimen, and any prescribed medical regimen.

28 New Sec. 2. No registered professional nurse shall announce
29 or hold himself or herself out to the public as an advanced
30 registered nurse practitioner unless he or she has complied with
31 additional requirements established by the board, and has been
32 issued a certificate of qualification authorizing him or her to
33 do so.

34 The board may establish higher standards and additional

1 requirements for any registered professional nurse who desires to
2 announce or hold himself or herself out to the public as being
3 qualified as an advanced registered nurse practitioner. The
4 board may give such examinations as it deems necessary to deter-
5 mine the qualifications of applicants, and may secure such assis-
6 tance as the board may deem advisable in determining the qual-
7 ifications of applicants.

8 Upon application to the board of any registered professional
9 nurses in this state, the board may issue a certificate of qual-
10 ification to such nurse authorizing the applicant to hold himself
11 or herself out or to announce to the public that he or she is an
12 advanced registered nurse practitioner. The application to the
13 board shall be upon such form and contain such information as the
14 board may require and shall be accompanied by a fee, to be deter-
15 mined by rules and regulations adopted by the board, to assist in
16 defraying the expenses in connection with the issuance of said
17 certificates of qualification, but said fee shall not be less
18 than thirty dollars (\$30) nor more than fifty dollars (\$50). The
19 secretary-treasurer of the board shall remit all moneys received
20 by or for him or her pursuant to this section to the state trea-
21 surer as provided by K.S.A. 1977 Supp. 74-1108.

22 Sec. 3. K.S.A. 1977 Supp. 65-1114 is hereby amended to read
23 as follows: 65-1114. It shall be unlawful for any person: (a)
24 To practice or to offer to practice professional nursing in this
25 state, or (b) to use any title, abbreviation, letters, figures,
26 sign, card or device to indicate that any person is a registered
27 professional nurse, or (c) to practice or offer to practice prac-
28 tical nursing in this state, or (d) to use any title, abbrevia-
29 tion, letters, figures, sign, card or device to indicate that any
30 person is a licensed practical nurse, or (e) to practice or offer
31 to practice as an advanced registered nurse practitioner in this
32 state, or (f) to use any title, abbreviation, letters, figures,
33 sign, card or device to indicate that any person is an advanced
34 registered nurse practitioner, unless such person has been duly
35 licensed and-registered, or issued a certificate of qualification

1 under the provisions of this act.

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

20 (b) Proceedings. Upon filing of a sworn complaint with the
21 board charging a person with having been guilty of any of the
22 unlawful practices specified in (a), above, two (2) or more mem-
23 bers of the board shall immediately investigate such charges, or
24 the board, after investigation, may institute charges. In the
25 event such investigation, in the opinion of the board, shall
26 reveal reasonable grounds for believing the applicant or licensee
27 is guilty of the charges, the board shall fix a time and place
28 for a hearing thereof and shall cause a copy of the charges,
29 together with a notice of the time and place fixed for hearing,
30 to be personally served on the accused at least twenty (20) days
31 prior to the time fixed for hearing. When personal service cannot
32 be effected and such fact is certified on oath by any person duly
33 authorized by the board to make service, the board shall cause to
34 be published once in each of two (2) successive weeks, a notice
35 of the hearing in a newspaper published in the county in which

1 the accused last resided, according to the records of the board,
2 and shall mail a copy of the charges and of such notice to the
3 accused at his or her last known address. When publication of
4 notice is necessary, the date of hearing shall not be less than
5 twenty (20) days after the last date of publication of the
6 notice. At the hearing, the accused shall have the right to
7 appear personally or by counsel or both, to produce witnesses and
8 evidence on his or her behalf, to cross-examine witnesses, and to
9 have subpoenas issued by the board. At the hearing the board
10 shall administer oaths as may be necessary for the proper conduct
11 of the proceedings.

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

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

27 (a) Apply to the board for a rehearing in respect to such
28 matters within ten (10) days from the date of the service of such
29 order, and the board shall grant or deny such rehearing within
30 ten (10) days from the date application therefor shall be filed
31 with it. If a rehearing or reconsideration be granted, the matter
32 shall be determined by the board within thirty (30) days after
33 the same shall be submitted. No cause of action arising out of
34 any order of the board shall accrue to any party unless such
35 party shall make application for rehearing as herein provided.

1 (b) Appeal to a court of competent jurisdiction from any
2 such order of the board by petition filed in such court within
3 thirty (30) days of service of the order from which appeal is
4 taken and serving a copy of the petition upon the secretary of
5 the board.

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

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

30 (a) Sell or fraudulently obtain or furnish any nursing
31 diploma, license ~~or~~ record or certificate of qualification or
32 aid or abet therein;

33 (b) practice professional nursing ~~or~~ practical nursing or
34 practice as an advanced registered nurse practitioner, as defined
35 by K.S.A. ~~1975~~ 1977 Supp. 65-1113 and amendments thereto, unless

1 duly licensed or certified to do so;

2 (c) use in connection with his or her name any designation
3 implying that he or she is a registered professional nurse or a
4 licensed practical nurse or an advanced registered nurse practi-
5 tioner unless duly licensed or certified so to practice under the
6 provisions of this act, and such license or certificate is then
7 in full force;

8 (d) practice professional nursing or practical nursing or
9 as an advanced registered nurse practitioner during the time a
10 license or certificate issued under the provisions of this act
11 shall have expired or shall have been suspended or revoked;

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

16 (f) violate any provisions of this act.

17 ~~Such offense shall be punishable by a fine of not more than~~
18 ~~five hundred dollars (\$500) or by imprisonment of not more than~~
19 ~~one month, or by both such fine and imprisonment, for the first~~
20 ~~offense. Each subsequent offense shall be punishable by a fine of~~
21 ~~not to exceed one thousand dollars (\$1,000) or by imprisonment of~~
22 ~~not more than six (6) months, or by both such fine and imprison-~~
23 ~~ment. Any person who violates this section shall be guilty of a~~
24 ~~class C misdemeanor, except that, upon conviction for a second~~
25 ~~offense, such person shall be guilty of a class B misdemeanor.~~

26 New Sec. 7. The board shall adopt and promulgate rules and
27 regulations as are necessary to carry out the purpose and enforce
28 the provisions of this act.

29 Sec. 8. K.S.A. 1977 Supp. 65-1113, 65-1114, 65-1120,
30 65-1121 and 65-1122 are hereby repealed.

31 Sec. 9. 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

Re Proposal No. 59

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

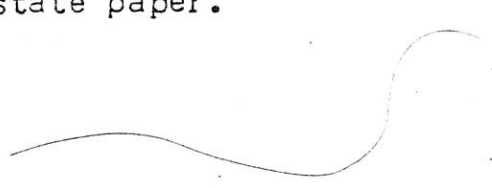
Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The statewide health coordinating council is hereby authorized and directed to make a study of criteria for credentialing of health care personnel in the state of Kansas. The statewide health coordinating council shall recommend, as a result of this study, specific criteria for the credentialing of all health care personnel and the state agency to be responsible for administration of the credentialing program.

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

(c) The statewide health coordinating council shall report its findings and recommendations based on this study and shall transmit the same to the governor and the legislature on or before December 1, 1978.

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



- Atch. B

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

Atch. C

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.

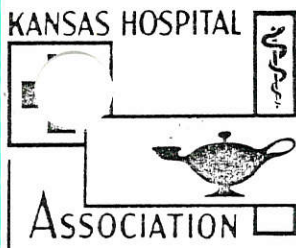
4 New Sec. 7. Prescriptions may be written by physicians'
5 assistants as provided in this section when authorized by the
6 responsible physician except for those controlled substances that
7 are listed on schedule II under federal and Kansas uniform
8 controlled substances acts. The prescription shall 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 and 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. The numerical limitation of section 8 of
22 this act shall not apply to services performed in a hospital.

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

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



MEMORANDUM

Frank L. Gentry
President

November 28, 1977

TO: Special Committee on Public Health & Welfare
FROM: Frank L. Gentry, KHA President
SUBJECT: PROPOSED CHANGES IN THE NURSE PRACTICE ACT

The Kansas Hospital Association Board of Directors discussed the proposed changes in the Nurse Practice Act at their meeting on November 9, 1977. We support the proposed changes but request addition of the following statement to the Nurse Practice Act:

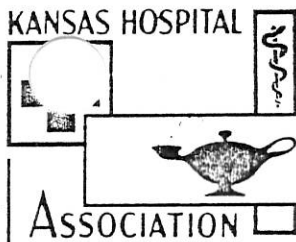
"Notwithstanding the provisions of this section, the determination of functions that may be performed by the advanced registered nurse practitioner within a medical care facility shall be made by the governing body of the medical care facility".

It is our opinion that the governing body of the hospital already has this authority; the purpose in spelling it out in the law is obvious; it eliminates any question that might arise. Further, it substantiates the fact that the governing body is responsible for the quality of care given in the institution.

Your insertion of such wording will be appreciated.

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MEMORANDUM

Frank L. Gentry
President

November 28, 1977

TO: Special Committee on Public Health & Welfare

FROM: Frank L. Gentry, KHA President

SUBJECT: PROPOSED PHYSICIANS' ASSISTANT BILL

The Kansas Hospital Association Board of Directors discussed the physicians' Assistant Bill at their meeting on November 9, 1977. We support the proposed bill but request the addition of the following statement:

"Notwithstanding the other provisions of this act, the determination of functions that may be performed by the physicians' assistant within a medical care facility shall be made by the governing body of the facility".

We recognize that the bill gives the ultimate responsibility for the actions of the physicians' assistant to the "responsible physician" and agree with the concept. The actions of the physicians' assistant, or for that matter, the physician himself, when performed within a hospital are the responsibility of the governing body of that institution, and we believe the bill should so reflect. We believe such wording will serve to clarify the responsibility and diminish the possibility of any misunderstanding.

We urge your serious consideration of inserting language similar to that suggested above, and appreciate the opportunity to make the suggestion.

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ALC. E

COMMITTEE REPORT

*Draft
Not Proceeded
A-6*

TO: Legislative Coordinating Council
FROM: Special Committee on Public Health and Welfare
RE: Proposal No. 60, Physician Extenders

Under Proposal No. 60, the Special Committee on Public Health and Welfare studied the role of physician extenders, including the regulation of such persons, trends in utilization, the relationship of the physician extender to the supervising physician and health care institutions and the economic impact of the use of physician extenders. The Committee study focused on two types of health care personnel -- the physician's assistant and the expanded role nurse.

Overview of Committee Study

To initiate its study under Proposal No. 60, the Special Committee on Public Health and Welfare held a two-day meeting in Wichita, holding hearings and meetings with persons who administer the physician's assistants training program and the nurse clinician training program offered by Wichita State University, and with the first-year students in the physicians' assistant program.

On the subject of the physician's assistant, the Committee heard the Director of the Physician's Assistant Program, the Medical Director of the Program, students, a representative of the Kansas Hospital Association, a member of the State Board of Healing Arts and the Secretary of the Board, the Vice-Chancellor of the Wichita Branch of the University of Kansas School of Medicine, a physician's assistant who works with a Topeka

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physician, the President of the Kansas Academy of Physicians' Assistants, two physicians who employ physician's assistants, a member of the State Board of Pharmacy and a representative of the Kansas Pharmaceutical Association, the administrator of a woutheast Kansas hospital, a representative of the Kansas Farm Bureau, a representative of the Kansas Medical Society, the Acting Dean of the Wichita Branch of the School of Medicine who has had experience with the utilization of physicians' assistants in New Mexico, the Regional Physician Assistant Coordinator from the Kansas City office of HEW, the Secretary of the Department of Social and Rehabilitation Services, and a representative of the Kansas Optometric Society.

On the subject of the expanded role nurse, the Committee heard the chairperson of the Nurse Clinician Department at Wichita State University, several nurse practitioners who work in non-urban settings and one nurse practitioner who works in an urban group practice setting, a physician who employs a nurse practitioner, the President and several members of the Kansas State Nurses' Association, the Secretary of the State Board of Nursing, the Secretary and two staff members from the Department of Health and Environment, a county health officer, a public health nurse, the Dean of the University of Kansas School of Nursing, the Director of the University of Kansas Nurse Practitioner Program, the chairperson of the Department of Nursing at Wichita State University, a representative of the Kansas Hospital Association, a representative of the Kansas Medical Society, a representative of the Kansas Association of Osteopathic Medicine, a representative of the Kansas Association of Hospital Schools of Nursing, and a representative of the Kansas Society of Nursing Service Directors.

The Committee reviewed opinions of the Attorney General relating to the supervision of physicians' assistants and the authority of the Board of Healing Arts to adopt rules and regulations relating thereto, reviewed and discussed state and federal laws regarding the prescribing of controlled substances and legend drugs, studied the laws and regulations of several other states, and reviewed proposed federal legislation which would allow certain physicians and rural health clinics to be reimbursed for services performed by a physician's assistant or an expanded role nurse for Medicare-related patients.

Physicians' Assistants

As defined by K.S.A. 1977 Supp. 65-2896, a physician's assistant is a skilled person qualified by academic training to provide patient services under the direction and supervision of a physician licensed to practice medicine and surgery who is responsible for the performance of such assistant. The Kansas definition follows that recommended by the American Medical Association for a Type A physician's assistant, the most skilled of the three types of physician extenders identified by the AMA. It is with this type of physician's assistant the Special Committee on Public Health and Welfare was concerned under Proposal No. 60.

Although there were no nationally recognized standards or minimum qualifications for physicians' assistants when the first Kansas statutes relating to this type of health care providers were enacted, the situation has changed within the past several years. The American Medical Association's Council

on Medical Education now accredits educational programs for physicians' assistants which, programs must include both didactic training and clinical experience. The National Board of Medical Examiners has developed an examination for physicians' assistants. The National Commission on Certification of Physician Assistants certifies physicians' assistants on the basis of their performance on the National Board examination and graduation from an approved program. In order to be recertified, the physician's assistant must participate in approved continuing education programs and be retested every six years.

In Kansas, a physicians' assistant training program was inaugurated at Wichita State University in 1972. The program is 24 months in length and includes 11 months of didactic training and 13 months of clinical experience. The Wichita State Physician's Assistant Program, which is AMA accredited, can accommodate 30 students per class. Admission requirements are four years of direct patient contact or a degree in biological science or a combination of the two including successful completion of specified courses.

By August 1976, the Wichita State University physicians' assistant training program had graduated 59 persons. All but four graduates are located in Kansas. All but eight of the graduate PAs practicing in Kansas are employed in medically underserved areas. During calendar year 1976, physicians' assistants in Kansas handled over 300,000 patient visits. Of these visits more than 240,000 were in medically underserved areas of the state.

The average annual salary of physicians' assistants in Kansas is \$18,000, ranging from \$12,000 in urban areas to \$22,000

in rural areas. The employing physician usually bills for services provided by the physician's assistant at the rate of his usual fee for the service. Currently, Medicare regulations prohibit the physician from billing for the services provided by a physician's assistant. [The economic impact of the entry of a physician's assistant into the health care system of an area is difficult to assess since it depends in part on whether the physician's assistant increases access to health care in the area.]

The Committee has concluded that the scope of practice of a physician's assistant in Kansas should be determined by the employing physician rather than by the Board of Healing Arts or by statute. Experience in those states which have adopted a statutory "laundry list" of responsibilities which can be assumed by the physician's assistant indicates that this approach needlessly limits the use of the physician's assistant. Testimony presented to the Committee indicated, for example, that had legislation such as that proposed in S.B. 256 been in effect in 1976, the number of patient visits handled by physician assistants during the year would have been reduced from over 300,000 to less than 200.

In reaching the conclusion that the responsible physician should determine the scope of practice of physician's assistant, the Committee recognizes that the physician who employs a physician's assistant remains legally and medically responsible for the actions of that assistant. Ultimately, only the employing physician can judge effectively how the physician's assistant performs and the limits of his capabilities. The physician should be free to exercise judgment in such matters, fully

realizing that if his judgment is faulty he retains the liability for the practice acts of the physician's assistant.

The unique relationship between the physician and physician's assistant depends on knowledge of individual capabilities, commonly held philosophies of patient care and trust. To be fully effective the physician's assistant must be an extension of the physician. Standards, performance criteria, limitations developed by outside sources can only interfere with the interpersonal relationships which must exist between the physician and the physician's assistant if the latter is to be an effective part of the health care system. The Committee concluded therefore that no changes should be made in the Kansas law that would weaken the relationship.

The term "direction and supervision" as used in the Kansas statutes relating to physicians' assistants is a matter of concern to physicians, to physicians' assistants, to hospital administrators and boards, and to the Board of Healing Arts. Some have tried to define "direction and supervision" as physical proximity or direct, on-site supervision. The Committee has concluded that such interpretation is too rigid. While the responsible physician must be in close contact with his physician's assistant and must continually direct and inspect his actions, such contact and direction may be effectively carried out by telephone, radio, closed circuit television, and periodic review of patient records, prescription, orders, etc.

In line with its conclusion that the scope of practice of the physician's assistant should be determined by the responsible physician, the Committee has concluded that statutory authorization should be given for physicians' assistants to prescribe legend drugs and controlled substances, except those

substances in Schedules I and II of the state and federal controlled substances acts. The Committee recognizes that there will be opposition following the physician's assistant to prescribe drugs. However, the members conclude that such authority should be available if the responsible physician chooses to authorize his assistant to exercise it. Again, the Committee notes that the decision to authorize a physician's assistant to prescribe and, any limitations on such authority, is that of the responsible physician who also is legally and medically liable for the practice actions of the physician's assistant.

The Special Committee on Public Health and Welfare concludes that a physician should be allowed to employ no more than two physicians' assistants. This decision which was recommended by most of the conferees who met with the Committee, is based on the Committee's concern with the relationship which must exist between the physician and the physicians assistant if quality of care is to be maintained. The members have concluded that effective supervision of more than two assistants would be difficult to maintain.

_____ Bill _____

The Special Committee on Public Health and Welfare decided that the two bills carried over from the 1977 Session, H.B. 2417 and S.B. 256, should not be recommended. The Committee has therefore, drafted and introduced _____ Bill _____ which incorporates the Committee recommendations arising from its study of physicians' assistants.

New Section 1 of _____ Bill _____ adds a new definition section to the laws governing the practice of physicians' assistants. The definitions of "direction and supervision" and

"responsible physician" are new and are intended to clarify the relationship of the physician and physician's assistant. The definition of physicians' assistant which is deleted from K.S.A. 1977 Supp. 65-2896 by _____ Bill _____ conforms with the present definition, except that the definition appearing in New Section 1 adds the requirement that the name of the physician's assistant be on the register maintained by the Board of Healing Arts.

Section 2 of _____ Bill _____, which amends K.S.A. 1976 Supp. 65-2896, adds new language to the statute which requires that a physician's assistant register annually with the Board of Healing Arts. The amendatory language also establishes the fee for an initial registration and a maximum renewal fee.

Annual registration, coupled with reporting requirements added to K.S.A. 1977 Supp. 65-2896a by Section 3 of _____ Bill _____, will enable the Board of Healing Arts to maintain a current listing of those physicians' assistants practicing pursuant to state laws.

Section 3 of _____ Bill _____ amends K.S.A. 1977 Supp. 65-2896a by adding two new subsections to the statute. The new provisions appearing as subsection (b) require a physician's assistant to supply the Board of Healing Arts with the name and address of the responsible physician when he registers; require the responsible physician to notify the Board of Healing Arts, the State Board of Pharmacy and the federal Drug Enforcement Administration when he ceases to employ a physician's assistant; and require notification to the same agencies by the responsible physician of the employment of a physician's assistant if such employment takes place prior to the physician's assistant's annual registration.

The reporting requirements added to K.S.A. 1977 Supp. 65-2896a will enable agencies to maintain current data on the employment status of physicians' assistants for enforcement purposes.

New Subsection (c) of Section 3 requires the Board of Healing Arts to establish continuing education requirements for physicians' assistants by July 1, 1979.

The requirement for continuing education was recommended by most conferees and is in conformance with the statutory continuing education requirements applicable to other health care providers in Kansas.

New Section 6 of _____ Bill _____ authorizes a physician's assistant to perform, under the direction and supervision of a physician, those acts which constitute the practice of medicine and surgery to the extent and in the manner authorized by the responsible physician.

This authorization is necessitated by federal requirements for the certification of hospitals if physicians' assistants are to provide services in hospitals.

New language in Section 6 also requires that the responsible physician identify the physician's assistant as such to patients and other health care providers.

New Section 7 of _____ Bill _____ authorizes a physician's assistant to write prescriptions for drugs, other than Schedule II controlled substances, when he is authorized to do so by the responsible physician. Statutory authorization for physicians' assistants to prescribe controlled substances and legend drugs is necessary to meet the requirements of federal and state laws relating to who may prescribe.

New Section 8 prohibits a physician from employing more than two physicians' assistants.

New Section 9 of _____ Bill _____ makes it clear that hospitals may employ physicians' assistants, provided such assistants are under the direction and supervision of a responsible physician, and that the limitations of New Section 8 are not applicable to hospitals.

The Expanded Role Nurse

The terms, expanded role nurse, and advanced registered nurse practitioner, as used in this report refer to those registered professional nurses who have obtained didactic and clinical training beyond the level of training required for licensure as a registered nurse which qualifies them to function in an expanded nursing role. The terms include those nurses who have completed a nurse clinician training program or a nurse practitioner training program. The title most commonly used by the nursing profession itself is nurse practitioner.

Expanded Role Nurse Training Programs

The Nurse Clinician program, which was initiated through the Regional Medical Program in 1971, is an example of the type of training programs which have been developed to train expanded role nurses in Kansas. The first class was admitted in 1972 at the University of Kansas, Kansas City. After completion of the first didactic portion of the program, the entire program was transferred to the College of Health Related Professions at Wichita State University. The first class on the Wichita State campus was admitted in January of 1973.

The Nurse Clinician Program is designed to involve registered professional nurses in a formal learning experience focused on the biopsychosocial assessment of pediatric and adult patients and families and upon the principles of clinical management of such patients. The program is divided into two phases: 12 weeks of didactic study and selected clinical experiences and 9 months of clinical preceptorship. Those who satisfactorily complete the program are eligible to take national certification examinations for nurse practitioners given by the American Nurses Association.

Persons applying for admission to the Nurse Clinician Program must fulfill all requirements for admission to Wichita State University and the College of Health Related Professions and obtain approval of the Admissions Committee of the Nurse Clinician Department. An applicant must be a registered nurse with an associate, diploma or a bachelor's degree, be currently licensed in Kansas and have a minimum of one year professional nursing experience. The student must have a sponsor who is a licensed physician and who agrees to serve as the student's preceptor during the 9 months preceptorship portion of the program.

The University of Kansas College of Health Sciences offers a one-year nurse practitioner training program which includes eight subject areas in the didactic training and a preceptorship. Registered professional nurses, whether graduates of diploma, associate degree or baccalaureate nursing programs, are accepted for admission to the training program.

A nurse practitioner program, being developed at Hays, is due to open in January of 1978.

The Practice of the Expanded Role Nurse

The expanded role nurse has acquired advanced nursing skills which enable the practitioner to assess the health status of an individual or family, to screen for health problems that need to be referred to a physician or other health care provider, to manage acute or episodic illness, to manage stable chronic illnesses, to teach health maintenance, and to counsel with patients about health problems. While these functions are all a part of modern nursing, the expanded role nurse is able to carry out nursing responsibilities in a less structured setting than can the nurse who does not have advanced training.

While to some degree all nursing practice ranges from those functions which are strictly a nursing function to those which overlap with medical functions, the practice of the expanded role nurse may include responsibilities which are traditionally thought of as medical, i.e., well baby checkups, pre and post partum care, provision of family planning services. In those areas in which there is an overlap between nursing care and medical care, the expanded role nurse frequently functions under protocols or written agreements with a physician.

Definition of Nursing

Since the beginning of the 20th century, the role of the professional registered nurse has changed. So too have state laws relating to professional nursing evolved -- from registration acts, to mandatory licensing acts, to recognition of expanded roles in nursing. The earliest nurse practice acts did not include a definition of nursing stated in terms of scope of practice since the early acts did not prohibit others from carrying out nursing functions but rather prohibited the use of the title "registered nurse" or RN by those who were not registered by the state.

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When it became unlawful to practice professional nursing without a license, it also became necessary to spell out the scope of practice so that violations of mandatory licensing could be identified.

In 1955 the American Nurses Association adopted a model definition of nursing which was incorporated in the nurse practice act of 21 states. The Kansas definition of professional nursing, which appears as K.S.A. 1977 Supp 65-1113(b), is the 1955 model definition with a few minor changes necessitated by Kansas statutory language.

The most notable provision of the American Nurses Association model definition was the disclaimer which stated that professional nursing does not include acts of diagnosis or the prescription of therapeutic measures, a disclaimer which appears in the Kansas definition of nursing.

By the time the American Nurses Association model scope of practice definition was adopted in 1955, nurses were being educated in schools which met standards developed by the National League of Nursing and a trend toward moving nursing education into universities and colleges was already developing. National examinations had been developed and many nurses with a recent education were, according to most authorities, observing patients, collecting data about their condition, and making and acting on their decisions about nursing care. They were, in fact, making diagnostic and therapeutic nursing decisions.

With the evolution of nursing education and the advent of the expanded role nurse, the disclaimer clause in nurse practice acts became a limitation on the functions of the nurse which effectively prevented practitioners from providing care which they were qualified to provide. Thus, mechanisms, such as joint practice

statements, were developed to allow nurses to carry out specific diagnostic and therapeutic measures.

In 1971, Idaho became the first state to revise its nurse practices act to recognize the expanded role of nurses. By 1977, 30 states had revised their nurse practice acts to reflect changes in nursing practice and to recognize the expanded role nurse. The Kansas definition of nursing is not among those which has been revised.

Conclusions and Recommendations

After hearing testimony relating to the practice of professional nursing, the Committee concluded that the definition of professional nursing which appears in K.S.A. 1977 Supp. 65-1113 should be updated and that the Nurse Practice Act should be revised to recognize the expanded role nurse.

The Committee has drafted and introduced _____ Bill _____ which reflects the recommendations of the Committee.

Section 1 of _____ Bill _____ amends K.S.A. 1977 Supp 65-1113, the definition section of the Nurse Practice Act, by adding a definition of "advanced registered nurse practitioner" or "ARNP", a definition of "diagnosing" in the context of nursing, and a definition of "treating" to the statute. The section also revises the definition of the practice of professional nursing.

New Section 2 of _____ Bill _____ adds new provisions to the Nurse Practice Act relating to the advanced registered nurse practitioner. The new section prohibits a registered professional nurse from holding himself or herself out to the public as an advanced registered nurse practitioner unless such nurse has complied with additional requirements established by the Board of Nursing and has been issued a certificate of qualification by the Board.

The provisions of New Section 2 of _____ Bill _____ also authorizes the Board of Nursing to establish higher standards and additional requirements for the registered professional nurse who desires to be qualified as an advanced registered nurse practitioner and authorizes the Board to give examinations to determine the qualifications of applicants. The proposed statute also authorizes the Board to charge a fee of not less than \$30.00 or more than \$50.00 for the issuing of a certificate of qualification as an advanced registered nurse practitioner.

Amendments to K.S.A. 1977 Supp. 65-1114, 65-1120, 65-1121 and 65-1122 contained in sections 3 through 6 of _____ Bill _____ add appropriate references to advanced registered nurse practitioner or a certificate of qualification to the statutes.

COMMITTEE REPORT

TO: The Legislative Coordinating Council
FROM: The Special Committee on Public Health and Welfare
RE: Proposal No. 59, Credentialing of Health Care Personnel

The Special Committee on Public Health and Welfare was asked to make a comprehensive study of the scope of professional duties, licensure, certification and registration of health care personnel with particular emphasis on the development of guidelines for licensing, registration and certification. The particular focus of the assigned study, identified as Proposal No. 59, was the development of policy guidelines which could be utilized in making decisions relative to which categories of health care providers should be licensed by the state.

Background

The federal Health Training Improvement Act of 1970, P.L. 91-519, required the Department of Health, Education and Welfare to submit a report to the Congress that identified and made specific recommendations with respect to the major problems associated with health personnel licensure and certification. The Department's Report on Licensure and Related Health Personnel Credentialing, which was submitted to the Congress in June, 1971, identified three forms which the credentialing of health manpower has taken -- accreditation of educational programs, certification of personnel by the profession, and licensure by a government agency. Noting that the three forms of credentialing are closely

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interrelated and, at times, the terminology is used interchangeably, HEW developed the following definitions:

Accreditation - The process by which an agency or organization evaluates and recognizes an institution or program of study as meeting certain predetermined criteria or standards.

Licensure - The process by which an agency of government grants permission to persons to engage in a given profession or occupation by certifying that those licensed have attained the minimal degree of competency necessary to ensure that the public health, safety, and welfare will be reasonably well protected.

Certification or Registration - The process by which a nongovernmental agency or association grants recognition to an individual who has met certain predetermined qualifications specified by that agency or association. Such qualifications may include graduation from an accredited or approved program, acceptable performance on a qualifying examination or completion of a given amount of work experience.

The 1971 HEW report examined the major problems associated with health professions licensing along with related aspects of certification and accreditation, identified public policy questions related to the licensure of categories of health care providers not presently licensed as well as questions related to the categories of providers who have traditionally been licensed, and

made a number of recommendations to the states and professions which have the principal responsibility for health manpower credentialing.

One 1971 HEW recommendation called for a two-year moratorium on state legislation that would establish new categories of professional licensure for the health disciplines. The recommended moratorium was intended to provide an opportunity to evaluate alternative mechanisms for credentialing those categories of health personnel not yet licensed. The moratorium recommendation was extended for an additional two-year period or through calendar year 1975.

In 1973, HEW issued a follow-up report entitled Developments in Health Manpower Licensing. The 1973 report covered the actions of state legislatures in response to the requested moratorium on health personnel licensing and studies of health manpower licensure which had been initiated in several states.

The final HEW report entitled Credentialing Health Manpower became available to the Committee this fall. This report contains six major recommendations, including recommended criteria for future state licensing decisions. This recommendation suggests that the states should entertain proposals to license additional categories of health personnel with caution and deliberation and sets out the following five factors which state legislatures should consider prior to enacting any legislation that would license additional categories of health manpower:

1. In what way will the unregulated practice clearly endanger the health, safety and welfare of the public, and is the potential for harm easily

- recognizable and not remote or dependent on tenuous argument?
2. How will the public benefit by an assurance of initial and continuing professional competence?
 3. Can the public be effectively protected by means other than licensure?
 4. Why is licensure the most appropriate form of regulation?
 5. How will the newly licensed category impact upon the statutory and administrative authority and scopes of practice of previously licensed categories in the state?

In 1974 the Virginia legislature acted to create an administrative agency to review all petitions for state licensure and to make findings and recommendations thereon to the Virginia legislature. The Virginia law, Code of Va. 54-1.1, also sets out four guidelines for decisions relating to licensure.

Another innovative approach to making decisions on health care licensure is a program established by Minnesota, Minn. Stat. 145.861, that transfers substantial authority for making licensure decisions in the allied health professions from the legislature to the State Board of Health.

Committee Study

The Special Committee on Public Health and Welfare studied the three HEW reports on the credentialing of health care providers and reviewed the Virginia law on the regulation of professions and occupations and the Minnesota law regarding the credentialing of human service occupations.

The Committee also met with the Director of Continuing Education of St. Francis Hospital and Medical Center, the Chairman of the Statewide Health Coordinating Council, a representative of Blue Cross-Blue Shield, and the Secretary of the Department of Social and Rehabilitation Services to discuss the effects of licensure on the cost of health care.

Extensive hearings were held on the following bills: Senate Bill No. 90 which concerns the scope of practice of chiropractic; Senate Bill No. 218 which would authorize the independent practice of denturism and require licensure to engage in such practice; Senate Bill No. 257 which would require that persons who hold themselves out as alcoholism counselors be licensed and create an advisory committee on alcoholism counselors; House Bill No. 2285 which would mandate the licensure of speech pathologists and audiologists and create a state board of speech pathology and audiology; and House Bill No. 2422 which amends the Healing Arts Act to include certain naturopathic physicians in the list of persons who are not engaged in the practice of the healing arts.

Conclusions

The Committee finds that the studies done by the Department of Health, Education and Welfare raise valid questions about the credentialing of health manpower. Decisions regarding mandatory licensing, the accreditation of educational programs, and the certification of professionals by professional organizations can affect the delivery of health care if they result in impeding the geographic movement of health manpower, if they result in loss of career mobility, if they result in requiring

formal training that is longer than is really needed to acquire appropriate qualifications for health care occupations, or if they result in further fragmentation of health careers. Such decisions also impact on the cost of health care.

The Committee also notes that the rapidly growing numbers of health occupations seeking state licensure poses two particular problems for decision-makers: (1) the rapid proliferation of occupations and roles in health care which can contribute to inefficiency in the health care system; (2) the adoption of arbitrary definitions of scope of practice in fields which are now and which will be evolving over the next decade.

As a result of its study under Proposal No. 59, the Committee endorses the adoption and use of specific criteria to be utilized in making decisions about the licensure or certification of health manpower. Decisions about the issue of "to license or not to license" should be made on the basis of an objective assessment rather than on the basis of the relative political strength of the proponents and opponents.

Recommendations

The Special Committee on Public Health and Welfare recommends that the Statewide Health Coordinating Council be directed to make a study of criteria for the credentialing of health care personnel in Kansas and to report their recommendations for specific criteria to the Governor and Legislature no later than December 1, 1978. The Committee believes that the SHCC, which is composed of consumers and providers of health care and members of the Legislature, and which is responsible for planning for the

delivery of health care in Kansas, is particularly qualified to make such recommendations. _____ Bill No. _____ implements the Committee recommendation.

The Committee also recommends that until the Legislature establishes a mechanism to evaluate the issues involved in licensing, a moratorium be placed on new licensing or modification of existing licensing of health care occupations. For this reason, the Committee recommends 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. The Committee also notes that one of the sponsors of S.B. 90 and the Kansas Chiropractic Association believe that this bill is no longer necessary in view of the findings of fact included in the decision in Acupuncture Society of Kansas v. Kansas State Board of Healing Arts, No. 128879, Fifth Division, District Court of Shawnee County.

Respectfully submitted,

Representative Mike Johnson, Chairman
Special Committee on Public Health
and Welfare

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