Approved 4-7-83
Date

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Marvin Littlejohn, Chairperson at

1:30 a.m./p.m. on March 21, 1983 in room 423-S of the Capitol.

All members were present except: Rep. Niles, excused

Committee staff present: Emalene Correll, Research Department
Bill Wolff, Research Department
Bruce Hurd, Revisor's Office
Sue Hill, Secretary to Committee

Conferees appearing before the committee:

Visitor's register, see (Attachment No. 1.)

Chairman called meeting to order.

Chairman referred to Rep. Friedeman who moved to table SB 33 at an earlier meeting until today's date. Rep. Friedeman yielded to Rep. Spaniol.

Rep. Spaniol made a conceptional motion to strike Section (3) in the balloon copy of SB 33, page 3. Seconded by Rep. Friedeman. (See Attachment No. 2.), for balloon copy of SB 33. Revisor Bruce Hurd was asked to read from a Supreme Court Decision on the definition of malice. Rep. Spaniol moved to amend his motion to add to the motion on SB 33, to carry the motion further to amend the title. Rep. Friedeman seconded. Discussion followed.

Mr. Charles Hamm, Chief of Legal Services of SRS answered questions of committee in regard to confidentiality in abuse reporting. If in fact it is placed into computer and are there safe-guards to keep the confidentiality in check.

The question was called. Voice vote taken, then division called. Vote was 9 nos and 7 yeas. Conceptional motion on SB 33 was defeated.

Rep. Helgerson moved that SB 33 be passed as amended. Seconded by Rep. Blumenthal, and motion carried.

Briefings by Emalene Correll on SB 11. Ms. Correll gave a very broad, and detailed section by section explanation on SB 11. Citing new sections added, clean up changes, policy changes, language changes, etc. Ms. Correll answered questions from committee.

Ms. Correll offered a background paper on Nurse Practitioners that will be a good reference for committee members. (See Attachment No. 3.)

SB 247-- Sub-committee, chaired by Rep. Buehler reported to committee on their findings and recommendations on SB 247. (See Attachment No.4.) for details. Rep. Buehler noted that the sub-committee discussed these changes with both Sen. Ehrlich and Sen. Hayden and they were in agreement with the recommended changes. Rep. Buehler stated it was the unanimous recommendation of the sub-committee to report SB 247 as before committee in the balloon copy. (See Attachment No. 5.) for details in balloon of SB 247.

Chair noted to committee and visitors that agenda is subject to change without notice. Also to alert committee there is a possibility of a called meeting on adjournment of the House for Thursday, March 24th, and if the House is to be in Session on Saturday, March 26th, committee will have a called meeting on Friday, March 25th. Further a possibility of a called meeting on adjournment of the House for Monday, March 28th.

Meeting adjourned at 3:05 p.m.

Date: 3-21-83

GUEST REGISTER

HOUSE

PUBLIC HEALTH AND WELFARE

Please Print

NAME	ORGANIZATION	ADDRESS
Marilyn Bradt	KINH	Lawrence
Millie Schroeder	KDOA	610 W 10th Topeka
Ethel Mae Mullen	Ks Assn. for Retarded Citizens	Topeka
MARILYN PFLAUM	KPNHAA	TOPEKA
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	"
Jim Lackey	Kansas Advocacy & Protective Services	Manhattan
Jean Stricklen	KAPS	Manhattan
BARB REINERT	Ks WP Caucus	Topeka
Lynelle King	Ks St. Nurses' Assn	"
Nickie Stein	KS St. Nurses' Assn.	Topeka
Rebecca Kupper	Ks. Hospital Assoc.	"
Jim Clark	Ks Co & Dist Attys Ass.	"
John Wilcox	SELF	KINSLEY
Susan Wilcox	Self	Kinsley
Dick Hummel	KNHCA	Topeka
JERRY SLAUGHTER	KMS	TOPEKA
Dr Lois F. Leibelt	KSBN	503 Kansas Ave
Bill Dean	Merrell Dow Pharm	O.P. Ks
Ken Schafermeyer	KS Pharmacists Assoc	Topeka

(attachment no. 1.)

As Amended by Senate Committee

Session of 1983

SENATE BILL No. 33

By Senator Johnston

(By Request of the Social and Rehabilitation Services Review Commission)

1-11

AN ACT concerning the provision of services for the protection of certain persons from abuse or neglect; amending K.S.A. 39-1401, *39-1402*, and 39-1404 and repealing the existing sections.

, 39-1403

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

Section 1. K.S.A. 39-1401 is hereby amended to read as follows: 39-1401. As used in this act:

(a) "Resident" means:

(1) Any resident, as defined by K.S.A. 39-923 and amendments thereto; or

(2) any client cared for in an adult family home; or

~~(2)~~ *(3)* any individual kept, cared for, treated, boarded or otherwise accommodated in a medical facility, as defined by K.S.A. 65-425 and amendments thereto, which is operated by the state or federal government.

(b) "Adult care home" has the meaning ascribed thereto in K.S.A. 39-923 and amendments thereto.

(c) "Adult family home" has the meaning ascribed thereto in section 1 of 1983 House Bill No. 2027.

~~(b)~~ *(d)* "In need of protective services" means that a resident is unable to perform or obtain services which are necessary to maintain physical and mental health.

~~(c)~~ *(e)* "Services which are necessary to maintain physical and mental health" include, but are not limited to, the provision of medical care for physical and mental health needs, the relocation of a resident to a facility or institution able to offer such care,

Attachment No. 2.

assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from maltreatment the result of which includes, but is not limited to, malnutrition, deprivation of necessities or physical punishment and transportation necessary to secure any of the above stated needs, except that this term shall not include taking such person into custody without consent, except as provided in this act.

~~(d)~~ *(f)* "Protective services" means services provided by the state or other governmental or private organizations or individuals which are necessary to prevent abuse or neglect.

~~(e)~~ *(g)* "Abuse" means neglect, willful infliction of physical or mental injury or willful deprivation by a caretaker of services which are necessary to maintain physical and mental health.

~~(f)~~ *(h)* "Neglect" means the failure of a caretaker to maintain reasonable care and treatment to such an extent that the resident's health or emotional well-being is injured.

~~(g)~~ *(i)* "Caretaker" means a person or institution who has assumed the responsibility for the care of the resident voluntarily, by contract or by order of a court of competent jurisdiction.

No person shall be considered to be abused or neglected for the sole reason that such person relies upon spiritual means through prayer alone for treatment in accordance with the tenets and practices of a recognized church or religious denomination in lieu of medical treatment.

Sec. 2. K.S.A. 39-1402 is hereby amended to read as follows: 39-1402. (a) Any person licensed to practice any branch of the healing arts, the chief administrative officer of a medical care facility, an adult care home administrator, a licensed social worker, a licensed professional nurse and a licensed practical nurse, who has reasonable cause to believe that a resident is being or has been abused or neglected, or is in a condition which is the result of such abuse or neglect or is in need of protective services, shall report immediately such information or cause a report of such information to be made in any reasonable manner to the department of social and rehabilitation services.

(b) The report made pursuant to subsection (a) shall contain

the name and address of the person making the report and of the caretaker caring for the resident, the name and address of the involved resident, information regarding the nature and extent of the abuse, neglect or exploitation, the name of the next of kin of the resident, if known, and any other information which the person making the report believes might be helpful in an investigation of the case and the protection of the resident.

(c) Any other person having reasonable cause to suspect or believe that a resident is being or has been abused or neglected, or is in a condition which is the result of such abuse or neglect or is in need of protective services may report such information to the department of social and rehabilitation services.

(d) Notice of the requirements of this act and the department to which a report is to be made under this act shall be posted in a conspicuous place in every adult care home and adult family home in this state.

Sec. ~~2~~ [3]. K.S.A. 39-1404 is hereby amended to read as follows: 39-1404. (a) The department of social and rehabilitation services upon receiving a report that a resident is being, or has been, abused or neglected, or is in a condition which is the result of such abuse or neglect or is in need of protective services shall, within ~~forty-eight~~ ~~(48)~~ *48* hours of receiving such report, initiate an investigation, including a personal visit with the resident and, within two weeks of receiving such report, shall initiate a thorough investigation and evaluation to determine the situation relative to the condition of the resident and what action and services, if any, are required. The evaluation shall include, but not be limited to, a visit to the named resident and consultation with those individuals having knowledge of the facts of the particular case. Upon completion of the evaluation of each case, written findings shall be prepared which shall include a finding of whether there is or has been abuse or neglect, recommended action and a determination of whether protective services are needed.

(b) The secretary of social and rehabilitation services shall maintain a statewide register of the reports received, the findings, evaluations and the actions recommended. The register shall be

Sec. 3. K.S.A. 39-1403 is hereby amended to read as follows: 39-1403. (a) ~~No person who makes~~ Anyone participating in the making of any report pursuant to this act, or in any follow-up activity to or investigation of such report or any other report of abuse or neglect of an adult or who testifies in any administrative or judicial proceeding arising from such report shall not be subject to any civil or criminal liability on account of such report, investigation or testimony, unless such person acted in bad faith or with malicious purpose.

(b) No employer shall terminate the employment of, prevent or impair the practice or occupation of or impose any other sanction on any employee solely for the reason that such employee made or caused to be made a report under this act.

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available for inspection by personnel of the department of social and rehabilitation services. The secretary of social and rehabilitation services shall forward a copy of any report of abuse or neglect of a resident to the secretary of health and environment and, in the case of a report of abuse or neglect of a resident of an adult care home *or an adult family home*, to the ~~state nursing home ombudsman~~ *secretary of aging*.

(c) Neither the report nor the written evaluation findings shall be deemed a public record or be subject to the provisions of K.S.A. 45-201 to 45-203, inclusive, and any amendments thereto. The name of the person making the original report or any person mentioned in such report shall not be disclosed unless the person making the original report specifically requests or agrees in writing to such disclosure or unless a judicial proceeding results therefrom. No information contained in the statewide register shall be made available to the public in such a manner as to identify individuals.

Sec. 3 [4]. K.S.A. 39-1401, *39-1402*/ and 39-1404 are hereby repealed.

Sec. 4 [5]. This act shall take effect and be in force from and after its publication in the Kansas register.

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, 39-1403

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MEMORANDUM

October 11, 1982

TO: The Special Committee on Public Health and Welfare

FROM: Kansas Legislative Research Department

RE: Nursing and the Nurse Practitioner

Development of Nursing

In discussing the role of the nurse practitioner in the health care system of the 1980s, it may be helpful to look at the development of nursing laws in the United States since the beginning of the 20th Century and at various factors that have resulted in changes in the legal and practice status of nurses.

Medicine was the first of the professions to establish the legal precedent of licensure of an occupation by the states and to protect the occupation from those who were incompetent or untrained. Texas was the first state to license physicians and to prohibit medical practice by those who were not licensed through the enactment of the first medical practices act in 1973. After the U.S. Supreme Court held that occupational licensing was a valid exercise of the powers of the states in 1888, the licensing of medical practitioners spread rapidly to all the states. Medicine, unlike other professions, also gained control of medical education through the accreditation of medical schools early in the 1900s.

The first national nursing organization was not established until 1894, some 47 years after the American Medical Association was founded. Unlike medicine, nursing did not lobby for nursing practice acts initially, but for the recognition of trained nurses through registration by the states. North Carolina became the first state to enact a nurse registration act in 1903. By 1923, all of the states then in the Union had enacted nurse registration acts. The early nurse registration acts were not analogous to the medical practice acts because they did not include a statement of the scope of practice of registered nurses nor were they mandatory practice acts. Rather, they provided for a registry of those nurses who had completed an accepted nursing program and had passed an examination conducted by a state agency. In other words, the nurse registration laws made it illegal to use the title "registered nurse" without meeting state requirements, but did not make it illegal for an unregistered individual to practice nursing.

New York initiated the second phase of nursing by enacting the first mandatory nurse practice act in 1938. The New York law recognized two levels of nurses — the registered professional nurse and the practical nurse. By the time that nurses began to lobby for mandatory nurse practice acts, the standard training for nurses had become the three-year hospital-based diploma program and nurses were beginning to move from private duty practice to hospital settings. Nursing did not totally control nursing education, as medicine controlled medical education, since three-year diploma programs were operated by hospitals and were influenced by hospital administrators and medical staff.

(Attachment no. 3.)

With the expansion of mandatory licensing acts in the 1940s and 1950s it became necessary to define nursing or the scope of practice of nursing in order that prohibitions against nonlicensed practitioners engaging in nursing could be enforced. It was not, however, until 1955 that the American Nurses Association (ANA) adopted a model definition of nursing practice which was subsequently adopted in toto or substantially by some 21 states, Kansas among them.

The model definition of nursing adopted by the ANA in 1955 contained the following disclaimer. "The foregoing shall not be deemed to include any acts of diagnosis or prescription of thereapeutic or corrective measures." The disclaimer was not found in some of the practice acts passed before the model definition was promulgated, nor was it included in some state act developed after 1955. In fact, some authorities believe that the decliamer was out of date when it was proposed since registered nurses were, in many practice settings, observing a patient, collecting data about the patient and making decisions about the type of nursing care to be provided the patient.

By 1970, a number of changes in nursing education had taken place, with the phasing out of diploma programs and the growth of collegiate nursing education. By 1978, only 23 percent of the nurses who graduated that year were diploma program graduates. The remainder received associate arts or baccalaureate degrees. By the 1970s, nursing education had become professional education and had moved far away from the apprentice orientation of the earlier part of the 1900s.

At the same time that nursing was becoming increasingly professionalized, changes were taking place in medicine. Because of the rapid growth in science and technology during the mid-1900s, medicine became more complex and more specialized. Although in the early 1900s most practitioners of medicine were in general practice, by 1976 the Department of Health, Education and Welfare reported that specialists outnumbered generalists by four to one. Specialization in medicine led to a shortage of primary care providers available to treat common illness and chronic conditions and an interest in alternative systems of primary care delivery.

As technical advances came about in health care, specialized nursing units were developed. The coronary care unit provides an example of the expansion of nursing practice. When it was recognized that many deaths following heart attacks could be prevented if arrythmias could be diagnosed and converted to normal rhythms, nurses with advanced specialized training begain to staff cardiac care units. Such nurses represented an incursion into what was formerly considered the sole realm of medicine. The nurses who staff intensive care units also represent an area of nursing practice once thought to be reserved for medicine only, functioning as they do in making on the spot diagnostic decisions and implementing appropriate treatment for intensive care patients without waiting to consult a physician.

Two other factors affecting the practice of nursing emerged in the 1960s and 1970s, a changing image of the role of women and rapidly escalating costs in health care. The first resulted in increasing dissatisfaction on the part of some nurses with the traditional role of nursing and a more assertive approach to updating both nursing practice and the laws that regulate such practice. The second intensified interest in the development of new ways to deliver health care, particularly primary care.

The 1970s were characterized by the expansion of nursing practice both in fact and by statute. Since 1971 most states have revised their nurse practice acts, with one of the most significant changes being deletion of language that excluded diagnosis and treatment from the definition of nursing. Most of the amendments to nurse practice acts also recognized in some way the nurse who, by virtue of education and training beyond the level necessary for entry into the profession, is qualified to practice beyond the basic level of nursing. The majority of state laws delegate the responsibility of dealing with the expanded role nurse or nurse practitioner to state boards of nursing or combinations of state boards of nursing and medicine. Generally, the delegation has taken the form of allowing the state board or boards to designate the qualifications and authorized practice of the nurse practitioner through rules and regulations. In several states, state boards of nursing have been able to take on the responsibility of setting the qualifications and dealing with the expanded functions of nurse practitioners without any new statutory authority. Idaho was the first state to recognize the nurse practitioner through changes in the Idaho nurse practice act in 1971. Kansas was among the last of the states to provide statutory authorization for the nurse practitioner through amendments to the nurse practice statutes in 1978.

At the same time that the practice of nursing has evolved, there have been forces operating to restrict the practice of nursing. Among these are the reaction of some segments of medicine to any expansion in the role of nursing in the health care field and divisions within the nursing profession itself as to the role of nurses.

Advanced Registered Nurse Practitioners in Kansas

In 1977, the Legislative Coordinating Council directed an interim Special Committee on Public Health and Welfare to study the role of physician extenders and to make recommendations thereon to the 1978 Legislature. The Committee focused its study on two different providers of health care, the physician's assistant and the expanded role nurse. In making its recommendations in the form of bill drafts to the 1978 Legislature the Special Committee, however, took very different approaches to the two types of providers.

The 1978 bill which related to physicians' assistants required that when such persons apply for registration by the Board of Healing Arts, they present to the Board the name and address of the physician responsible for the practice of the physician's assistant. The bill also provided that a person whose name has been entered on the register of physicians' assistants perform, only under the direction and supervision of a physician, acts which constitute the practice of medicine and surgery to the extent and in the manner authorized by the physician responsible for the physician's assistant. (Now K.S.A. 65-2896e.)

In contrast, the 1977 Special Committee on Public Health and Welfare rejected several recommendations that would have required the expanded role nurse to practice exclusively under the direction of a person licensed to practice medicine and surgery. The 1977 Special Committee on Public Health and Welfare also rejected a recommendation by the Kansas Medical Society that the rules and regulations governing advanced registered nurse practitioners (ARNPs) be jointly adopted by the Board of Nursing and the Board of Healing Arts. In the bill drafted by the Committee for introduction in 1978, the Committee proposed that the statutory definition of nursing be updated to reflect the changed role of nurses in the health care system and that the

Kansas nurse practice statutes be expanded and amended to authorize those nurses who have received advanced training to function in an expanded role if so authorized by the Board of Nursing to do so through certification of qualification to practice as an ARNP. In its report to the 1978 Legislature, the Special Committee on Public Health and Welfare, described the expanded role nurse, designated as an ARNP by the Committee bill, as follows:

> "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 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."

The interim committee bill, 1978 H.B. 2720, was enacted by the Legislature in substantially the form in which it was drafted by the interim committee. During consideration of the bill, the standing committees to which the bill was assigned rejected recommendations that would have proposed to define "expanded role" by statute and that would have created an advisory committee composed of nurses and physicians to advise the Board of Nursing in the development of rules and regulations defining the scope of practice of expanded role nurses. The bill was supported by the Board of Nursing and the Kansas State Nurses Association through a position paper supporting the concept of recognizing the expanded role nurse in statutes.

The development of the ARNP regulations was a long and difficult process. The first draft of the regulations prepared by the Board of Nursing in 1978 plunged the Board into a controversy within the nursing profession by requiring that, after July 1985, new applicants for a certification of qualification as an ARNP have a BS degree and, after July 1990, new applications have a MSN. The draft regulation also recognized a laundry list of ARNP specialities.

A second draft of ARNP regulations prepared in 1979 would have required the ARNP to have a masters degree in nursing with a major in a clinical specialty. The scope of practice of the ARNP was not clearly delineated but relied on the characteristics of graduate education in nursing prepared by the National League of Nursing as the scope of practice. The Board sent the draft regulations to the

Department of Administration for approval as to form as required by law. Following this action, the Board was invited to meet with the 1979 interim Committee on Public Health and Welfare to discuss the proposed rules and regulations. The interim committee was concerned about the requirement of a masters degree being proposed by the Board of Nursing as the entry level of education for the ARNP, believing that this requirement did not comply with the intent of the Legislature. Subsequently, in 1980 S.B. 566, the Legislature amended three of the statutes relating to the advanced registered nurse practitioner to add "training" to the reference to education programs in the requirement for ARNP status to make it clear that such programs are not limited to those that lead to an advanced degree. The Legislature rejected the Kansas Medical Society's recommendation that the statutes be amended to require that the ARNP work under the direction and supervision of a physician, but did amend the statutes to make it clear that the ARNP functions in an expanded nursing role.

During 1979, the Board of Nursing further amended the proposed ARNP regulations after a public hearing and an opinion from the attorney advising the Board. The Board adopted permanent regulations in December of 1979. The 1980 Legislature rejected the permanent regulations adopted by the Board of Nursing through the adoption of 1980 SCR 1676.

The Board of Nursing initiated new action on ARNP regulations immediately following the 1980 Legislative Session. One of the proposed regulations, K.A.R. 60-10-101, was amended to state, "ARNP's function as members of a physician directed health care team and within the framework of medically approved criteria, policies, and standing orders." The Joint Committee on Administrative Rules and Regulations reviewed the revised regulations in June of 1980 and, among other concerns, raised a question as to whether the sentence quoted above was consistent with the role of the ARNP, other language in the regulations and legislative intent. The latter part of the question referred to the interdependent status of the ARNP and advanced or expanded practice in a less structured role as set out by the 1978 interim committee in its report. Nursing also expressed concern with the sentence added to K.A.R. 60-10-101, pointing out that the language did not differentiate between basic nursing and advanced practice. The languge was rewritten by the Board of Nursing to state, "ARNP's functioning in the expanded role perform in an interdependent role as a member of a physician-directed health care team in the execution of the medical regimen." The Board then adopted the draft regulations as permanent regulations with some additional minor changes in November of 1980.

Following review of the permanent ARNP regulations filed by the Board of Nursing by the Joint Committee on Administrative Rules and Regulations in January of 1981 at which several members of the Kansas Medical Society asked the Committee to introduce legislation to reject the regulations, the Joint Committee introduced 1981 SCR 1607 which would have modified the language relating to educational programs to include "training." The 1981 Legislature did not adopt SCR 1607, and the permanent ARNP regulations became effective May 1, 1981. In May of 1981, the Kansas Medical Society filed the action in the Shawnee County District Court which led to the opinion by Judge Allen holding the Legislature failed to provide sufficient guidelines to the Board of Nursing in regard to the scope of practice of the ARNP. By the time the opinion was issued, 141 ARNPs had received certificates of qualification and 25 other registered nurses had applied for certification.

Nurse Practitioner Training and Practice

The 1977 Special Committee on Public Health and Welfare and the 1978 Legislature in working with the nurse practice bill, based their concept of the advanced registered nurse practitioner on two expanded role training programs then in existence in Kansas — the nurse clinician program at Wichita State University and the nurse practitioners program offered by the University of Kansas. In 1977, both were one-year expanded role training programs requiring both didactic study and clinical preceptorship training. These were but two of a number of programs around the country that were developed in the 1970s to train expanded role nurses. The yet unpublished data from the latest longitudinal study commissioned by the Department of Health and Human Services shows there were 91 nurse practitioner certificate programs and 141 masters level nurse practitioner programs in operation in the United States in 1980. Twenty-five of the certificate and 26 of the masters programs were pediatric nurse practitioner programs, nine certificate and 11 masters programs were nurse midwifery practitioner programs, 11 certificate and 14 masters programs trained maternity practitioners, 23 certificate and 39 masters programs offered family nurse practitioner training, 19 certificate and 36 masters programs trained adult nurse practitioners, four certificate programs trained emergency nurse practitioners, six masters programs trained psychiatric or mental health nurse practitioners and, nine masters programs trained practitioners in other specialties.

The Phase III Longitudinal Study of Nurse Practitioners, which reflects data collected in 1977, showed that 58 percent of the graduates of certificate programs were employed immediately after graduation. Thirty-six percent of the graduates of masters programs were employed immediately. Within one month after graduation about 80 percent of the graduates of certificate programs and 75 percent of the masters program graduates were employed. Of those not employed at the time of the survey, about one-half were not seeking employment and about one-third of those unemployed at the time of the survey had been employed since their graduation.

According to the Phase III study, 75.1 percent of the total nurse practitioner graduates (1977) were employed wholly or in part as nurse practioners, with 72.6 percent providing primary care and 2.5 percent teaching, consulting, etc. Of the 14.6 percent who were not practicing as nurse practitioners, 3.5 percent were employed in schools of nursing, 11.1 percent were employed in hospitals, nonhospital institutional settings, community settings or ambulatory practice, and 10.3 percent were not currently employed. Of the nurse practitioner graduates, 53.5 percent were functioning in a nurse practitioner role only, 30 percent were employed in both nurse practitioner and traditional nursing roles, and 16.5 percent were fulfilling only traditional nursing roles. Of the nurse practitioners practicing in a practitioner role, 22.6 percent were employed in inner city practice settings, 18.7 percent were in other urban settings, 14.8 percent were practicing in a suburban setting, 21.6 percent were in a rural practice setting, 7.8 percent were in a combination setting, and 14.5 percent were practicing in various institutional settings. The percentage of nurse practitioners practicing in a rural setting in Kansas is greater than the 1977 national percentage since many of the nurse practitioners who have completed the nurse clinician program at Wichita State are practicing in rural settings.

4

SUBJECT: Study of Senate Bill 247 by Subcommittee from the House of Representatives Standing Committee of Public Health and Welfare.

TO: Chairman, Representative Marvin Littlejohn

Your subcommittee composed of Representatives Buehler, Roenbaugh and Harder have completed the study of Senate Bill 247 and make the following report:

It is the opinion of the subcommittee that the intent of the legislation is to utilize aides for the disposition of medication in the health care units specified in the bill. We therefore find registration and licensing to be unnecessary and would only create a new level of personnel to be regulated by some agency. We do deem it necessary to require an updated level of continuing education and recognition by the Department of Health and Enviroment. This continuing education must be accomplished at two year intervals.

We recommend the following amendments to Senate Bill 247:

Line 18: Strike (registration of) and insert continuing education for.

Line 20: Strike all after the semicolon in line 20 and all preceeding the semicolon in line 21.

Line 24: Strike the words (section 1 to 8 inclusive of).

Line 30: Strike all after the word thereto and all of line 31.

Line 35: After the word person insert the language on the baloon and strike the rest of the page.

Page 2: Strike the entire page 2.

Page 3: Strike all of page 3 through line 115.

Line 116: Strike the figure 9 and insert the figure 3.

Page 4: Strike lines 156 and 157.

Page 5: Strike all of line 158, 159, 160 and 161.

After line 161: Insert new paragraph (i) as shown on the baloon.

Renumber section 10 as section 4 in line 162.

Renumber section 11 as section 5 in line 163.

The subcommittee finds that this proposal would eliminate unnecessary legislation, would make the act more practical, easier to understand and to enforce.

The proposal submitted has been recommended by the author of Senate Bill 247, Senator Roy Erlich and we wish it to be noted that the reference in subparagraph (i) of new section 3, is recommended by Senator Hayden.

We unanimously recommend the proposal:

Frank Buehler
Susan Roenbaugh
Jess Harder

(attachment no. 4.)

5

As Amended by Senate Committee

Session of 1983

SENATE BILL No. 247

By Senator Ehrlich

2-9

AN ACT providing for the ~~registration of~~ medication aides; providing for administration of the act by the secretary of health and environment; ~~authorizing the establishment of fees and granting authority to enjoin violations;~~ amending K.S.A. 65-1124 and repealing the existing section.

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

New Section 1. As used in ~~*sections 1 to 8, inclusive, of*~~ this act:

(a) "Medication aide" means an unlicensed person certified as having satisfactorily completed a training program in medication administration approved by the secretary of health and environment for the purposes of subsection (i) of K.S.A. 65-1124 and amendments thereto ~~and registered in accordance with the provisions of this act~~.

(b) "Secretary" means secretary of health and environment.

New Sec. 2. (a) On and after the effective date of this act, no person shall be a medication aide for the purposes of subsection (i) of K.S.A. 65-1124 and amendments thereto unless such person is registered with the secretary in accordance with this act. The secretary shall maintain a register of the names of medication aides. ~~A fee of $10 shall be charged for the~~ *The* initial registration *fee shall be fixed by rules and regulations of the secretary in accordance with this subsection (a).* All registrations shall be renewed every two years, and the renewal fee shall be fixed by rules and regulations of the secretary ~~but shall not exceed $10 in~~ *accordance with this subsection (a). The secretary by rules and regulations shall fix fees under this subsection in amounts adequate to cover the cost of the registration of medication aides under this act.*

continuing education for

maintains a program of continuing education at least every two years, as established by the secretary. The secretary by duly adopted rules and regulations shall establish the requirements for such a program as soon as possible after the effective date of this act. The secretary shall update the certificate of a medication aide upon the completion by such medication aide of any continuing education program as provided in this section. The secretary shall determine a fee by rules and regulations in an amount sufficient to cover the costs of the department to administer the provisions of this act.

Attachment no. 5

(b) The secretary shall remit all moneys received by the secretary under this act to the state treasurer at least monthly, and such money shall be deposited in the state treasury and credited to the state general fund.

(c) The secretary may adopt rules and regulations necessary to carry out the provisions of this act.

New Sec. 3. No person shall be registered as a medication aide by the secretary unless such person has presented to the secretary proof that such person has satisfactorily completed a training program in medication administration approved by the secretary and has paid the required fee.

New Sec. 4. On and after July 1, 1985, the secretary shall require every medication aide to submit with the renewal application evidence of satisfactory completion of a program of continuing education required by the secretary. The secretary by duly adopted rules and regulations shall establish the requirements for the program of continuing education as soon as possible after the effective date of this act.

New Sec. 5. (a) The secretary may refuse to place a person's name on the register of the names of medication aides or may remove a person's name from the register of the names of medication aides for any of the following reasons:

(1) The person requests or consents to the removal thereof;

(2) the person habitually indulges in the use of narcotic or other habit-forming drugs or excessively indulges in the use of alcoholic liquors;

(3) the person has been convicted of a felony;

(4) the person obtained or attempted to obtain registration under this act by fraud or deception; ~~or~~

(5) is incompetent or grossly negligent in the administration of medications.*;*

(6) the person assumes duties or responsibilities for which such person has not been trained;

(7) the person inaccurately records, falsifies or alters information in a patient's or resident's medical record; or

(8) the person diverts or ingests medication intended for a

(b) No action shall be taken under paragraphs (2) to (5), inclusive, of subsection (a) unless notice has been given and a hearing held if a hearing is requested by any party to the proceeding.

New Sec. 6. A person certified prior to the effective date of this act as having satisfactorily completed a training program in medication administration approved by the secretary of health and environment for the purposes of subsection (i) of K.S.A. 65-1124 and amendments thereto shall be considered a medication aide for the purposes of this act and shall not be required to register under this act until October 1, 1988. At that time such person shall be subject to the registration requirements of this act.

New Sec. 7. The secretary of health and environment may bring an action in the district court to enjoin any unlicensed person from the administration of medications as authorized under subsection (i) of K.S.A. 65-1124 and amendments thereto unless the person is registered with the secretary as a medication aide in accordance with this act or is deemed to be a medication aide for the purposes of this act under section 6. In an action under this section for a temporary or permanent injunction, it shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the temporary or permanent injunction not be issued or that the remedy at law is inadequate, and the temporary or permanent injunction shall issue without such allegations and without such proof.

New Sec. 8. No person reporting to the secretary of health and environment under oath and in good faith any information such person may have relating to the qualifications, fitness, competence or character of a medication aide shall be subject to a civil action for damages as a result of reporting such information.

Section ~~9.~~ K.S.A. 65-1124 is hereby amended to read as follows: 65-1124. No provisions of this law shall be construed as prohibiting:

(a) Gratuitous nursing by friends or members of the family; ~~or as prohibiting~~;

(b) the incidental care of the sick by domestic servants or persons primarily employed as housekeepers ~~or to~~;

~~*(c)* serving the sick by prayer or spiritual means as long as they *those so serving the sick* do not practice professional nursing or practical nursing within the meaning of this act; or as prohibiting;~~

(c) caring for the sick in accordance with tenets and practices of any church or religious denomination which teaches reliance upon spiritual means through prayer for healing;

(d) nursing assistance in the case of an emergency; ~~nor shall it be construed as prohibiting~~

(e) the practice of nursing by students enrolled in accredited schools of professional or practical nursing nor nursing by graduates of such schools or courses pending the results of the first licensing examination scheduled by the board following such graduation; ~~nor shall it be construed as prohibiting~~

(f) the practice of nursing in this state by ~~any~~ legally qualified ~~nurse~~ *nurses* of ~~another state whose~~ *any of the other states as long as the* engagement *of any such nurse* requires ~~him or her~~ *the nurse* to accompany and care for a patient temporarily residing in this state during the period of one such engagement~~,~~ not to exceed six ~~(6)~~ months in length, ~~provided such person does~~ *and as long as such nurses do* not represent or hold ~~himself or herself~~ *themselves* out as ~~a nurse~~ *nurses* licensed to practice in this state; ~~nor shall it be construed as prohibiting~~

(g) the practice by any nurse who is employed by the United States government or any bureau, division or agency thereof, while in the discharge of ~~his or her~~ official duties; ~~nor shall it be construed as prohibiting~~

(h) auxiliary patient care services performed in medical care facilities, adult care homes or elsewhere by persons under the direction of a person licensed to practice medicine and surgery or a person licensed to practice dentistry or the supervision of a registered professional nurse or a licensed practical nurse; ~~nor shall it be construed as prohibiting~~ *or*

~~*(i)* the administration of medications to residents of adult care homes or to patients in hospital-based long-term care units by~~

an unlicensed person who has been certified as having satisfactorily completed a training program in medication administration approved by the secretary of health and environment *and is registered as a medication aide under sections 1 to 8, inclusive.*

Sec. 10. K.S.A. 65-1124 is hereby repealed.

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

(i) the administration of medications to residents of adult care homes or to patients in hospital based long term care units, by an unlicensed person who has been certified as having satisfactorily completed a training program in medication administration approved by the secretary of health and environment and has maintained the program on continuing education adopted by the secretary.