

Approved

Date

Stephen R. Cloud 1-24-84

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Rep. Stephen R. Cloud at  
Chairperson

9:08 a.m./p.m. on January 19, 1984 in room 522-S of the Capitol.

All members were present except:

Committee staff present:

Avis Swartzman - Revisor  
Carolyn Rampey - Legislative Research Dept.  
Julian Efird - Legislative Research Dept.  
Russ Mills - Legislative Research Dept.  
Jackie Breymeyer - Committee Secretary  
Conferees appearing before the committee:

Elizabeth Carlson - Executive Secretary, State Board of Healing Arts  
Don Strole - Attorney, State Board of Healing Arts

The meeting of the House Governmental Organization Committee was called to order at 9:08 by Rep. Stephen R. Cloud, Chairman. The following items were distributed to the Committee: Minutes of the January 18 meeting, Agenda for the week of January 23, letter of March 23, 1983 from the Chairman to Elizabeth Carlson requesting modification of the complaint form (Attachment I) and the staff memorandum regarding the Board of Healing Arts (Attachment II). Ms. Carlson's response to the Committee will also be made available and will be designated Attachment III.

The Chairman introduced Elizabeth Carlson, Executive Secretary, State Board of Healing Arts, who went through a section-by-section review of SB 41. Ms. Carlson cited that the Board had received seven reports from hospitals about the suspension of hospital privileges. Action has been taken by the Board in every case, with some cases still pending. The insurance commissioner is forwarding the petitions in bulk and Mr. Strole, attorney for the Board would like to see these petitions come in more often so they would not have to be handled all at once. The licensees are reporting, with some reservations still being felt about the aspect of telling on someone, situations that arise, and things seem to be going well in that area. Of the six reported cases, two have a limitation of license, two are hospitalized, one will hopefully sign with limitation and one is being turned over to the district attorney for action. The "good moral character" has been stricken in the Podiatry act, with rules and regulations amended to comply with the stricken section, and will become effective May 1, 1984. "Good moral character" language has not been stricken in the Healing Arts Act, but, as the rules are due for an overhaul, it is hoped that this will be done this year. This will be changed on the new applications. Another section was complied with when Mr. Don Strole was hired as the full-time Board attorney on August 1, 1984. No action was taken on Section 9, which protects a person reporting violations to the Board. In Section 10, striking "good moral character" has been amended to comply with the Physical Therapy Rules and Regulations.

Mr. Strole told the Committee that a broad interpretation of SB 41 would increase the amount of information that the chief of medical staff or chief administrative officer has to release in the investigation of a case. The interpretation is taken from SB 41, New Section 2, subsection (b). This is a problem that will hopefully be addressed in SB 507. Ms. Carlson and Mr. Strole answered many question and queries from the Committee and were then thanked by the Chairman.

The Chairman brought before the Committee proposed legislation by Rep. Fox dealing with the Board of Cosmetology. Rep. Barr moved that this proposed legislation be introduced as a Committee bill. Vice Chairman Smith gave a second to the motion. The motion carried.

The Chairman told the Committee the agenda for the next day's meeting and called for action on the minutes of January 18. The minutes were approved. The meeting was adjourned at 10:08 a.m.

SAE



STATE OF KANSAS



TOPEKA

HOUSE OF REPRESENTATIVES

March 23, 1983

SETH R. CLOUD  
CHAIRMAN  
HOUSE GOVERNMENTAL ORGANIZATION COMMITTEE  
TOPEKA, KANSAS

SETH R. CLOUD  
CHAIRMAN  
HOUSE GOVERNMENTAL ORGANIZATION COMMITTEE  
TOPEKA, KANSAS

Elizabeth Carlson  
Executive Secretary  
State Board of Healing Arts  
503 Kansas Avenue  
Topeka, KS 66603

Dear Ms. Carlson:

As you know, the House Governmental Organization Committee has been involved in a sunset review of the State Board of Healing Arts. The Committee has directed me as Chairman to request that you modify your complaint form.

You will note on the bottom of the form that space is allowed for the form to be notarized. In looking at the form it is very easy to assume that notarization is required before the form is sent in. The legislature has taken some specific action and eliminated the requirement that this form be notarized. Our Committee requests that you either totally eliminate the notarization language from the complaint form, or, as a minimum, put additional language on the form which plainly states that the notarization is optional.

I would sincerely appreciate receiving your response to this recommendation with a copy of the new form by April 20, 1983. I sincerely appreciate your help in this matter.

Sincerely,

Stephen R. Cloud  
Chairman, House  
Governmental Organization  
Committee

SRC/jb

Atch. I

## MEMORANDUM

December 19, 1983

TO: House Committee on Governmental Organization  
FROM: Kansas Legislative Research Department  
RE: Board of Healing Arts

The Kansas State Board of Healing Arts was due to be abolished July 1, 1983, under provisions of the Sunset Law. The 1983 Legislature extended the Board for one more year, so that it now will be terminated July 1, 1984, unless extended. This memorandum provides background information about the Board and ends with a brief review of actions concerning the Board taken during the 1983 Session.

Composition and Duties of  
the Board

The Board of Healing Arts was established in 1957 so that "the public shall be properly protected against unprofessional, improper, unauthorized, and unqualified practice of the healing arts and from unprofessional conduct by persons licensed to practice under this act" (K.S.A. 65-2801). It is the successor agency to three separate licensing and regulatory boards which existed prior to its creation. The Board consists of the following 13 members who are appointed by the Governor, with the consent of the Senate, to four-year staggered terms:

1. five members who hold a degree of doctor of medicine;
2. three members who hold a degree of doctor of osteopathic medicine and surgery;
3. three members who hold a degree of doctor of chiropractic medicine;
4. one member who holds a degree of podiatry;  
and
5. one public member.

Except for the public member, all members must have been actively engaged in Kansas in their respective fields at least six consecutive years immediately preceding their appointment. In making the appointments, the Governor

*Atch. II*

is required to take into consideration the names of persons who are on lists submitted by the professional societies or associations represented on the Board, except in the case of the podiatrist and public members.

The Board of Healing Arts is charged with administering the provisions of the Kansas Healing Arts Act which provides for the licensure and regulation of medical and osteopathic doctors and chiropractors. In addition, the Board is responsible for administering other statutes which bring within its jurisdiction the registration of physician's assistants, the registration and certification of physical therapists and physical therapy assistants, and the licensing and regulation of podiatrists.

In performing these latter duties (administering the Physical Therapy Act and the Podiatry Act), the Board works with two committees which assist it in matters relating to their respective professional fields.

The first is the State Examining Committee for Physical Therapy, a statutory five-member committee directed to "assist the board (of Healing Arts) in carrying out the provisions of this law, regarding the qualifications and examinations of physical therapists and physical therapy assistants." The members, who are appointed to four-year terms, consist of three physical therapists appointed by the Governor, a physician licensed by the Board of Healing Arts to practice medicine and surgery appointed by the Board, and the Secretary of the Board of Healing Arts. (This Committee was under the provisions of the Sunset Law, but those provisions were removed by the 1981 Legislature.)

The second committee is the Advisory Committee on Podiatry, a three-member committee established in 1975. The Committee consists of three podiatrists who advise and consult with the Board of Healing Arts in the administration of laws regarding the qualifications and examination of podiatrists.

The duties of the Board include determining the qualifications of persons who wish to practice in Kansas in the professional areas under the Board's jurisdiction, administering various examinations, issuing licenses, registrations, or certificates, and investigating and hearing complaints concerning practitioners under the Board's jurisdiction. The qualifications of practitioners are set forth in Kansas statutes and the rules and regulations of the Board.

The Board administers examinations twice a year in each professional area under its jurisdiction, except for physician's assistants. Examinations for physician's assistants are given at Wichita State University. All of the examinations are standardized tests administered by the Board (or by Wichita State University, in the case of physician's assistants), except for the podiatry examination. That test is developed by the Board itself with the assistance of the Advisory Committee on Podiatry.

All persons who are licensed, registered, or certified by the Board must renew their permits to practice annually. All practitioners, except physical therapy assistants, are required to show proof of having met continuing education requirements before their permits may be renewed.

In recent years, the Board reviewed approximately 100 complaints against licensees annually. However, activities of the 1983 Legislature to strengthen the Board's disciplinary procedures could result in an increase in the number of complaints filed. The Board contracts with an investigator who gathers information on serious complaints and, if warranted, the Board holds disciplinary hearings which can result in a license or permit to practice being revoked, suspended, or limited. The Board usually holds five or six hearings a year although there has been an increase in both the number and length of hearings during the last several years. Until FY 1984, the Board contracted with an attorney for its legal services, but, beginning this year, it has the authority to employ its own staff attorney.

Fees which may be collected by the Board are listed in the statutes pertaining to each of the professions under the Board's jurisdiction. Except in the case of physical therapists and physical therapy assistants, the statutes also set a limit on each fee. For physical therapists and physical therapy assistants, the limits are set in rules and regulations of the Board. Table I shows some of the fees collected by the Board.



Table I  
Selected Fees Collected by the  
Board of Healing Arts

<u>Profession</u>	<u>Type of Fee</u>	<u>Current Amount</u>
Medical doctors	Examination	\$160
	Initial Licensure	130
	Renewal	50
Doctors of osteo- pathic medicine	Examination	160
	Initial Licensure	130
	Renewal	50
Chiropractors	Examination	40
	Initial Licensure	130
	Renewal	50
Physician's assistants	Examination	--
	Initial Registration	50
	Renewal	10
Physical therapists	Examination	} 85
	Initial Registration	
	Renewal	15
Physical therapy assistants	Examination	} 85
	Initial Certification	
	Renewal	15
Podiatrists	Examination	30
	Initial Licensure	130
	Renewal	50

Board Operations and Budget

The Board is funded entirely from fees it collects for issuing licenses and permits, giving examinations, and performing other duties for which a charge is assessed. Twenty percent of its income is credited to the State General Fund. The remainder is credited to the Healing Arts Fee Fund which supports the operation of the Board office at 503 Kansas Avenue. The Board's staff consists of eight persons: an Executive Secretary, an Attorney, and six clerical staff. Each year the Board selects one of its members to serve as Secretary and that person also receives a salary fixed by the Board. In addition, the Board contracts with an investigator.

For the current fiscal year (1984), the Board has been authorized to spend \$329,497. Major items in the budget are salaries (\$182,041), travel and subsistence for Board members and staff (\$22,450), fees for investigators, court reporters, and other professional services (\$46,350), and fees for the purchase of examinations (\$21,281). For FY 1985, the Board is requesting \$424,735. Items for which increases

over the current year are requested include additional legal assistance for the Board and liability insurance for Board members.

### Activities of the 1983 Legislature

During the 1983 Session, legislation was first introduced which would have continued the Board beyond its scheduled abolition date under the Sunset Law from July 1, 1983, to July 1, 1991. That proposed legislation was amended to remove the Board entirely from the provisions of the Sunset Law. The final version of the legislation extended the Board only until July 1, 1984, and made a number of substantive changes in the statutes relating to the Board's ability to identify and discipline health care providers.

The changes were prompted, in part, by a concern over the solvency of the Health Care Stabilization Fund. That fund, administered by the Commissioner of Insurance, pays for successful claims against doctors in malpractice suits, when the amount awarded exceeds the minimum amount of liability insurance the state requires each doctor to carry (\$100,000). The Insurance Commissioner told legislators during the 1983 Session that the fund was dangerously low as the result of numerous claims, some for millions of dollars, made against it.

One response by the Legislature was to question whether the Board of Healing Arts was able to adequately identify and discipline practitioners who were not professionally competent or who had committed acts which are grounds for revocation, suspension, or limitation of licenses, registrations, or certificates to practice.

Therefore, the Legislature strengthened reporting requirements by stipulating that disciplinary action taken by a medical staff or by a governing board of any firm, facility, corporation, institution or association which has granted practice privileges to or which has employed any health care practitioner regulated by the State Board must be reported to the State Board either by the chief of the medical staff or the chief administrative officer. In addition, any person licensed by the State Board must report possible violations of K.S.A. 65-2836 to the State Board, and failure to report such knowledge is included as a violation of the statute.

Further, the Commissioner of Insurance is required to report to the State Board whenever a person files a malpractice suit against a health care practitioner if the suit



involves anyone who is licensed, registered or certified by the State Board and who is covered by the Health Care Stabilization Fund.

It was hoped that these strengthened reporting requirements would enable the Board to identify incompetent licensees before they possibly became the targets of malpractice suits. To further assist the Board in improving its disciplinary procedures, the 1983 Legislature authorized the addition of a full-time attorney to the Board's staff, plus an additional clerical position.

The decision to recreate the Board for just one year was made so that the 1984 Legislature would have the opportunity to evaluate the Board's success in implementing the changes mandated during the 1983 Session. It is also likely that, during the 1984 Session, the Commissioner of Insurance will propose changes relating to the Health Care Stabilization Fund which will be of interest to Committee members in their review of the Board of Healing Arts.

REPORT TO HOUSE GOVERNMENTAL ORGANIZATION COMMITTEE  
ON ACTION BY BOARD OF HEALING ARTS ON SB 41

Section 1. Sunset for Board for 1984.

Section 2. Requiring hospitals and institutions to report to the Board any suspension of privileges by licensees.

Seven reports have been received from hospitals about the suspension of hospital privileges. Action has been taken by the Board in every case. Some stipulations have been signed and licenses limited. Some cases we are still working on.

Section 3. Requiring insurance commissioner to forward a copy of the malpractice petition when it is filed instead when action is completed.

Since July 1, 1983, we have received 76 copies of petitions. Dates petitions were received are August 4, September 27, November 14, December 8 and January 5, of this year. Don Strole, Attorney for the Board, will speak on this subject.

Section 4. Requiring licensee (unless subject to physician/patient relationship) to report an act which is listed in K.S.A. 65-2836.

Six reports have been received to this date. Two stipulations have been signed with limitation of license. One will sign, we hope, with limitation. Two have been hospitalized, and one is to be turned over to the district attorney for their action.

Section 5. Striking "good moral character" in Podiatry Act.

The Rules and Regulations for Podiatrists have been amended to comply by striking this section. The Rules will become effective on May 1, 1984.

Section 6. Striking "good moral character" in Healing Arts Act.

These Rules and Regulations have not yet been changed. However, these Rules are due for an overhaul, which we hope will be done this year. This is not being required on the application if it is not completed. When new applications are ordered this will be changed.

Section 7. Failure by licensee to report or reveal knowledge required to be reported.

No action has been taken on this. Calls have been received from the KMS Impaired Physician Committee regarding their involvement. The Board attorney feels that it is their duty under this law to report to the Board -- and we have received information from them. More reports have been received from the Drug Enforcement Administration concerning either the ordering of drugs or prescribing of large amounts of drugs. Action has been taken in all of these cases and most physicians have agreed to discontinue their practice of prescribing these controlled substances.

Section 8. Employment of a full time attorney for Board of Healing Arts.

Don Strole was appointed as full time attorney on August 1, 1984. A secretary has also been hired for his office. Don is working diligently and has been a great help during these past few months. You will hear from him later.

*Atch. III*

Section 9. No person subject to civil action or disciplinary action in reports violations to the Board. "Immunity"

No action taken. This just protects anyone reporting to the Board any violation.

Section 10. Striking "good moral character" in Physical Therapy Act.

The Physical Therapy Rules and Regulations have been amended to comply with this requirement. These Rules will go into effect on May 1, 1984. The applications of the physical therapist and physical therapist assistants have been changed to comply with this change in statute.