Approved 2-19-85
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Senator Roy M. Ehrlich at
Chairperson

10:00 a.m./p.m. on February 14, 1985 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Conferees appearing before the committee:

Ken Kasten, Wichita
Senator Bob Frey
Ann Harvey
Ruth Seaton for Richard Seaton
Marilyn Diehl
Betty Jones
Signe Rogers
Linda Davis-Stephens
Darcy Allison

Others Attending: See Attached List

SB-125 - midwifery - licensure of midwives

Ken Kasten, Wichita, testified and gave written testimony supporting SB-125 asking the bill be considered to ensure the availability of skilled, caring professionals for home births. Mr. Kasten stated no single group of professionals should have sole determination of any aspect of our lives. Attachment I

Senator Bob Frey, who introduced the bill, testified and presented a copy of Article 50, Credentialing, 65-5001. Senator Fry stated the bill was introduced because of the occurence of certain recent events when a baby died and a midwife was in attendance. The Board of Healing Arts became involved and ultimately it was decided the midwife had done a good job and was permitted to continue her activities. Senator Frey stated it would be useless to approach the SHEC Committee for credentialing because midwifery is a practice which aids the mother in giving birth to the child. Midwives do not provide health services and this bill would provide a means for credentialing.

Ann Harvey testified and submitted written testimony in support of SB-125. She stated that the midwife's role is to assist the woman in achieving optimal outcome of pregnancy, labor and delivery. Birthing families are encouraged to obtain medical back-up, choosing a physician with whom they feel comfortable and who will be available for consultation and willing to meet family and midwife at hospital, should transport be necessary. Midwifery combines skill and intelligence with dedicated work and nutrient supportive behavior. Attachment II

Ruth Seaton presented the testimony of Richard H. Seaton in support of SB-125, also presenting his written testimony. Mr. Seaton represented a midwife who was sued by the Board of Healing Arts. The Board claimed she was practicing medicine. Prior to trial, both the midwife and the Board agreed to a consent order, which the District Judge approved. Under the terms of the order, the midwife is not considered to be practicing medicine as long as there is a physician available for consultation and emergencies. In effect, the consent order legalized midwifery, at least as far as the Board and this midwife are concerned. Attachment III

Marilyn Diehl testified and submitted written testimony supporting SB-125. Mrs. Diehl stated that as a mother and an American, the choice of having her children where she wanted and with whom, had left her with a feeling of confidence and security. Attachment IV

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 526-S, Statehouse, at 10:00 a.m./pxx on February, 1985.

Betty Jones testified and submitted written testimony supporting SB-125. Ms. Jones stated that if midwifery is not legalized someone would try and pass a bill to prohibit it. This would take the freedom of choice from constituents. She asked that Kansas be made a safe place to have children, where every woman can have a healthy, normal, safe pregnancy and a normal, safe childbirth experience. Attachment V

Signe Rogers testified and submitted written testimony in support of SB-125. As President of Peace and Home, Ms. Rogers stated the belief in the right of parents to determine the type of birth experience they desire and supported responsible home birth. She further stated they recognize inherent dangers with unregulated practice of midwifery, and that their organization desires standards regulated by the state of Kansas. Ms. Rogers asked how the SHCC Committee could even consider giving credentials to a profession that those in the state of Kansas have not even made clearly legal as yet. As consumers they feel the need to have the legality of midwifery established by lawmakers. Attachment VI

Linda Davis-Stephens testified and presented written testimony in support of SB-125, stating that midwifery is a current concern of the American Civil Liverties Union, both in the state and in the nation. It was also stated that this bill promotes freedom of choice in childbirth by increasing parents' access to licensed birth attendants in home based facilities with access to medical institutional support. Attachment VII

Darcy Allison testified and presented written testimony in support of SB-125. Ms. Allison stated that her written testimony represented ONLY Peace and Home which is the largest consumer group in Kansas consisting of both home and hospital couples. Legalization of midwifery would bring order to this issue using regulation to standardize this area. Attachment VIII

Meeting adjourned.

SENATE

PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-14-85

(PLEASE PRINT) NAME AND ADDRESS	ORGANIZATION
Nickie Stein, RN, M.Ed.	KS St. Nurses' Assn.
Ellen Horak, R.N.C.	K. St. Nurses Assn
Janice Meyer R.N.C.	Ks. St. Nurses Assoc.
Lynelle King	" " " "
Sylvia Orth Turnis	—
Elizabeth Carlson	Board of Healing Arts
Dr Lois R. Scibetta	KS St Bd of Nursing
Tommy Thalacker	KMS
Jim McBride	United Way
Kent R Landis	Christian Science Committee on Publication for Kansas
Jeanne Kasten	Kansas Assoc. for Legalization of Mid wifery
[illegible]	Intern – Sen. Kaul
Harold E. Rieth	KAOM
Don Strole	Bd of Healing Arts
Sherman A. Parks, Jr	Kansas Chiropractic Assn.
Kathy Wade Apps	Ks. Chiropractic Assn
Rick Harden, PA	KDHE
Ruth Welker	Sid Seats
Ronald Diehl	Kansas Assoc for Legalization of Mid wifery
Chuck & Helen Miller	Herington, Ks.
Bryce & Linda Stephens	Topeka Ks. – Residents
Darcy Allison	PEACE and HOME
Signa Rogers	Peace & Home

SENATE

PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 14 FEB 85

(PLEASE PRINT) NAME AND ADDRESS	ORGANIZATION
Frances Beier Fair	Ks. Midwives Association
Anne Harvey	Ks. Midwives Association
~~JEN KASTEN~~	KS ASSOC. FOR THE LEGALIZATION OF MIDWIFERY
Alison Goodman	Ks. Ass. For the Legalization of Midwifery
Betty Jones	Ks. Assoc. for the Legalization of Midwifery
Marilyn C. Dieml	Ks. Assoc. for the Legalization of Midwifery
~~Ruth SEATON~~	
Vionetta Schmidt	Kansas Midwives Association
Michael Wolf	Intern - Sen. Morris
Grace Mathai	Senator Walker Office
Nancy Morales	Sen. Daniels Office

T E S T I M O N Y I N F A V O R O F

S . B . 1 2 5

by

Kenneth W. Kasten

2/14/85
Attachment I

I am a concerned parent in favor of passing S.B. 125 to license midwives in Kansas. I am here to give a personal viewpoint on attended home birth.

My wife and I have three children. Although we had planned to have all of our children at home, an extended labor forced us to have our first child in the hospital. Our other two children were born at home.

We realize that complications can and do happen. Many of them can be prevented through good prenatal care. We were grateful for the availability of good hospital care when complications arose.

The midwives of today are not like the granny midwives who practiced years ago. They are armed with a wealth of knowledge and training which was unavailable to midwives of the past. The midwives we have had were totally dedicated to making each birth a special one. They spent many hours getting to know us and our every desire. Unlike a routine hospital birth, a home birth is a quiet, unhurried, and very personal event, with only people chosen by the parents in attendance.

Most of the midwives currently practicing in Kansas work with a backup physician. My wife and I made regularly scheduled trips to the obstetrician during her pregnancy as though we were planning a hospital birth. In this way, the obstetrician was familiar with her pregnancy in case my wife needed to go to the hospital.

Most obstetricians are unwilling to provide backup care due to the hazy legal status of midwifery in Kansas and pressure against such "unorthodox" dealings by their peers. The licensing of midwives would make it easier to find backup physicians.

There will always be those who will choose to have a hospital birth, or have contra-indications for home birth. What we are requesting is the equal opportunity to choose an attended home birth. Midwifery is not currently illegal in Kansas, but the State Board of Healing Arts is actively trying to outlaw midwives in the state. If they are successful, it will mean that those parents desiring a home birth will have difficulty finding an attendant for their birth. Some parents will attempt an unattended home birth, which will put them at a much higher risk.

I would now like to clarify a few points. This bill was written and is supported by a group of parents that want to ensure the availability of midwives for their home births and those of future generations. Since we are parents and not midwives, we cannot go through the S.H.C.C. credentialling process for health care professionals.

This bill does not spell out the training requirements that the midwife must meet. To do so would have made the bill overly cumbersome. It will be the duty of the Regulatory Council, set up under this act, to delineate the required training.

We are not interested in general alternatives to a routine hospital birth such as birthing rooms, birth clinics, or "home-like" birth. We are specifically talking about births attended in the home. Who among you has ever found a motel room comparable to your own bedroom? In order to ensure a safe home delivery, there should be a competent birth attendant. Most doctors will not attend a birth at home. Those who have tried to do so have been persecuted and prosecuted by their peers. Certified nurse midwives can attend home births, but they are nurses first, bringing the hospital routine into the home. A midwife must be more than just a technically capable person. She becomes intimately involved with the birthing family. Midwifery is not a healing art; it is a caring art.

Home birth is not a fad. It is not "innovative" birthing. Rather, it is a natural conclusion at home to a pregnancy which began in that home. Childbirth is not a disease, but a natural, healthy process. It does not, in most circumstances, require hospitalization, drugs, and medical procedures. In fact, carefully controlled studies have shown that there is less risk in a midwife attended birth than in a routine hospital birth with all its interventions.

We do not pretend to believe that licensing of midwives will ensure competency. It is not possible to do that in any profession, including the medical profession. When any professional meets a set of training requirements and passes a licensing exam, it only indicates a level of proficiency. There is no way to guarantee competency in any field.

We ask you to carefully consider this bill, put forth by a group of consumers to try and ensure the availability of skilled, caring professionals for our home births. No single group of professionals should have sole determination over any aspect of our lives. We want to make sure our birthing situation is not dictated to us by the hospital or physician. We hope that after considering the facts, you will favorable pass this bill out of committee.

Kenneth W. Kasten
1630 Arkansas
Wichita, KS 67203
(316) 263-0225

PUBLIC HEALTH & WELFARE COMMITTEE - SENATE February 15, 1985

Senate Bill #125

My name is Anne Harvey. I have lived in Kansas for most of my life. I have three children; my last child was born at home with a midwife in attendance. For the last 12 years or so I have been employed by or involved in organizations that deal with mothers and their babies. I am a practicing midwife and I am the current president of the Kansas Midwives' Association.

Since the beginning of time midwives have effectively met the physical and emotional needs of families who chose to have their babies at home. For many years this was the accepted norm; hospitals and physician-attended births then came into vogue. In today's society physician-attended hospital birth is chosen by the majority of families. But there still exists a segment of our society who prefer to birth their babies at home with a midwife in attendance.

Midwives having existed since the beginning of time, almost everyone has formed some idea of who we are and what we do. But because home birth and midwives are no longer the "norm" we find that there are often many misconceptions about our profession.

I would like to describe for you a typical midwife and the kind of services that she provides to families.

Midwives are women who feel strongly committed to caring for pregnant women and their families. Traditionally we have learned our trade through self-study and apprenticeships with a more experienced midwife. Many of us have backgrounds in childbirth education, nursing, or other medically oriented fields. There are available to us several correspondence courses which range from several months to several years of intensive study and require much motivation and self-discipline. In addition, we continually educate ourselves by attending workshops, seminars, conferences and continuing education courses. We utilize sources of education within our own community as well as those offered elsewhere, including other states.

As part of our ongoing education, today's midwife is involved in a number of midwifery and childbirth-related organizations. Some of these groups are:

the Kansas Midwives' Association, our state organization;

Midwives' Association of North America (MANA), our national organization;

Informed Homebirth (IH), a national organization which provides teacher certification and midwifery training workshops;

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Attachment II

Alternative Birth Crisis Coalition (ABCC);

National Association of Parents and Professionals for Safe Alternatives in Childbirth (NAPSAC);

International Childbirth Education Association (ICEA);

La Leche League (LLL), a world-wide breastfeeding support group.

A midwife is knowledgeable about the normal physiologic changes of pregnancy, labor and delivery. We watch that each segment completes itself within a satisfactory manner. Our role is to assist the woman in achieving optimal outcome. We do not intervene in the physiologic processes but rather enhance that process by non-invasive measures. Our primary goal is keeping the woman in optimal health during pregnancy through diet, exercise and education.

Prenatal exams, which are often done in the parent's own home, are an important part of our care of the woman. A midwife normally spends 45 minutes to an hour with the woman each time they meet. During the exam the mother's weight, blood pressure and urine are checked, along with the baby's heart tones and the position and presentation of the baby. Time is spent discussing the mother's diet, her plans for the birth, and any problems or concerns she has that may in any way affect her or her baby. The woman is encouraged to attend local childbirth classes and La Leche League meetings. Classes specific to the needs of home birth couples are frequently offered by the midwife, as are classes geared to children and friends of the family who will be present at the birth. Home birth couples are encouraged to educate themselves as much as possible, and midwives commonly maintain an up-to-date lending library for their client's use.

Our birthing families are encouraged to obtain medical back-up, choosing a physician with whom they feel comfortable, who will be available for consultation and who is willing to meet the family and the midwife at the hospital should transport be necessary.

Several weeks prior to the birth, a visit is made to the home to make sure that the facilities are adequate and that all necessary supplies have been obtained.

When the woman goes into labor, the midwives go to the home, where they continually monitor the health of the mother and her child. We assist in the normal processes of labor, maintaining a non-invasive approach. After the birth we remain with the family for several hours until we are satisfied that both mother and baby are stabilized.

During this postpartal period we assist the mother, child and family in adjusting to each other and in establishing/re-establishing the family. We may offer advice on breastfeeding, normal growth and development, nutrition or psychological changes that occur among family members. When needed the family is referred to appropriate medical facilities or other community agencies.

The profession of midwifery represents all that is best in female tradition. It combines skill and intelligence with dedicated work and nuturant supportive behavior. Midwives in Kansas exist only because the people of this state have a need for the kind of unique service that we provide. We feel strongly that the right to choose a home birth attended by a midwife should not be taken away from our birthing families. Our goal is optimal maternity care for women by promoting cooperation among all physicians, nurses, midwives, and public and private agencies who deal with pregnant women and their families.

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STATEMENT OF
RICHARD H. SEATON
RE: S.B. 125

Last year, in my law practice, I represented a midwife who was sued by the Board of Healing Arts. The Board claimed she was practicing medicine. Prior to trial, both the midwife and the Board agreed to a consent order, which the District Judge approved.

Under the terms of the order, the midwife is not considered to be practicing medicine, as long as there is a physician available for consultation and emergencies. In effect, the consent order legalized midwifery, at least as far as the Board and this midwife are concerned.

She had undergone special training and had attended 75-100 births. She possessed a wealth of knowledge about pregnancy and childbirth, which she used to inform and assist her patients. On the other hand, she was careful not to over step the limits of her own knowledge.

My experience convinces me that there are many equally capable midwives in Kansas. They, and the growing public which they serve, need to be recognized by statute. S.B. 125 would do this, and would assure training, competency, and state licensing in a field which is here to stay.

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My name is Marilyn Diehl and I am from Brookville Ks. I am the mother of four children. Two were born in the hospital and two were born at home.

We wanted a birth without family seperation for a closer bond with our newborn and a birth without interference. We really felt like we did not have the experience or knowledge to deliver by ourselves so we sought out a midwife. After visiting with a team of two, they gave us a schedule of their next five meetings. They consisted of nutrition, safety, emergency situations, and what to do with the newborn. After attending these meetings and watching some films about birth with midwife attendence we felt very informed and more confident about our pregnancy and birth.

The care we received during both home births was as professional and thorough as any before. They were both long labors and the midwives were there for the entire process. We found them to be competent in my babies care and welfare as much as mine. I felt secure in knowing they would be able to handle any situation that should arise.

As a mother and an American the choice of having my childrenwhere I wanted and with whom has left me with a feeling of confidence and security. Midwifery has made my dream become possible.

As I look at our countries,flag I am reminded of what those three colors stand for. RED stands for courage to seek out what you want; WHITE stands for truth, the ability to be honest with your mate and fellow people; and BLUE is for justice, on this issue and any other that you truly believe in.

Thank You

Marilyn Diehl

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Attachment IV

Good morning Senators.

My name is Betty Jones. I'm very glad and excited to be here. As I wrote to you individually, I am a mother of four, 2 of whom were born at home with careful planning and the assistance of a competent midwife. Because of my home births, I'm studying to be a childbirth educator for couples wanting home birth, and in my training, I've found some very interesting facts.

Obststricians would like to have the childbearing public believe that the move from nearly 100% home deliveries to 97% hospital deliveries has been the #1 cause of the fact that the U.S. infant and maternal mortality statistics have gotten better over the last 50 years. The American College of Obstetricians and Gynecologists has convinced everyone that the hospitals are the safest place to have babies. It is not true. According to Drs. Chard and Richard in The Benefits and Hazards of the New Obstetrics, 'the correlation between the rise in hospital delivery and falling maternal and infant mortality rates cannot be taken as cause and effect.'

Sweden, with all their babies delivered by midwives and a 100% hospital delivery rate, has an infant mortality rate of 6.8 per 1,000 live births, which is almost the lowest in the world. It is closely followed by the Netherlands with a rate of 8.3, where almost 50% of their babies are delivered at home . Their babies are delivered by midwives and doctors.

In 1981 the Journal of the American Medical Association published an article from the U.S. Center for Disease Control that showed the infant mortality rate for hospital births is 4-5 times greater than for home deliveries.

The obstetricians would have us believe that the self-selection and higher socio-economic status of today's homebirthers would explain any demonstratedly better statistics.

Two home delivery practices that refute this contention are the Chicago Maternity Center (1895-1972) which assisted with home deliveries in Chicago's black ghetto, and The Frontier Nursing Service in Kentucky which served Appalachian poor. These services helped anyone who needed it. Their statistics are consistently superior in every respect to hospitals serving similar populations.

A study in 1971 in Madera Co. , California compared the number of prenatal visits and perinatal mortality rates by pregnant women with regularly available obstetrical care, during the time midwives were providing prenatal care, and after the midwives were removed. The number of prenatal visits made before delivery <u>increased tremendously</u> during the period midwifery care was available, and the perinatal mortality was reduced. After the midwives were removed, the perinatal mortality returned to the original rate.

In the study titled Home Delivery and Neonatal Mortality in North Carolina, the neonatal mortality is examined by place and circumstances of delivery in North Carolina during 1974-1976 with attention given to home delivery. The summary and conclusions by the authors is: "Planned home deliveries by non-nurse midwives resulted in three neonatal deaths per 1,000 live births; planned home deliveries without a non-nurse midwife had 30 neonatal deaths per 1,000 live births; unplanned home deliveries resulted in 120 neonatal deaths per 1,000 live births. The women whose babies were delivered by non-nurse midwives were screened in county health departments and found to be

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Attachment IV

medically at low risk of complications, despite having demographic characteristics asociated with high-risk of neonatal mortality. Conversely, the women delivered at home without known prenatal screening or a trained attendant had low risk demographic characteristics but experienced a high rate of neonatal mortality. Planning, prenatal screening, and attendant training were important in differentiating the risk of neonatal mortality in this study." This study came out of the Journal of the American Medical Association, Dec. 19, 1980 Vol. 244 No. 24 pg. 2741.

In my training, I've come across more studies that document that trained midwives and home birth <u>significantly reduces</u> the perinatal (fetal and newborn) mortality rate which, in this nation, is too high! On a list compiled by Dr. Wegman in the Dec. issue of Pediatrics (vol 74, no. 6) ranks the United States as 17th on a list of twenty-five developed nations with an infant mortality rate of 10.9. So many babies should not die!

Senators, if you don't vote to legalize midwives, someone will try to pass a bill thru the legislature to prohibit midwives. Do you know what will happen if midwives are prohibited? You will take from me and from all your constituents, the freedom of choice to choose how, where and with whom we want our babies to be born, and you will cause home birth to become hazardous and risky. You will actually force parents to do it themselves without the assistance of a trained midwife and the knowledge and safety she brings. You will increase the risk 10 fold of our babies dying. And how could you explain that to your constituents?

Let's make it possible for homebirthers to have a safe childbirth experience by letting those trained midwives legally practice openly. Let's make it legal so that a school for midwives can come to Kansas so that others can be trained properly and competently.

Together, we can make Kansas a <u>safe</u> place to have children. Not just a place where babies can be saved, which is good, but a place where <u>every</u> woman can have a healthy, normal, safe pregnancy and a normal, safe childbirth experience. Good medical outcomes, happy parents, and healthy kids is what we're after! That's what home birth is about and I want to see it happen in Kansas. I want Kansas to have the lowest perinatal mortality rate in the United States!

Thank You.

Signe Rogers 2-14-85

February 14, 1985

SB 125

My name is Signe Rogers. I am the President of PEACE & HOME Association of Wichita, Inc., an organization that has been working for the legalization of midwifery for approximately eight years now. PEACE & HOME believes in the right of parents to determine the type of birth experience they desire. We support true family-centered maternity care which emphasizes non-intervention by medical personnel in normal births. We are NOT opposed to hospital deliveries. We support responsible home birth.

I am the mother of four children. My first two were born in a hospital and they were very nice experiences. My last two were born at home and those experiences exceeded our furthest expectations. I am committed to the idea that parents should retain the right to choose home as a safe alternative for birth. I also am a firm believer that a home birth can only be safe with a qualifed midwife to attend to the woman prenatally as well as during labor and delivery to assess the normality of the pregnancy/ labor/ and birth experience.

It is my personal convictions that has kept me actively supporting this issue for the last four years. The organization I represent has been pursuing the legalization of midwifery for eight years, being the impetus in getting the first legislation submitted eight years ago and pushing for

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passage of a similar bill every year since. It is not a passing fad with us. We recognize inherent dangers with the unregulated practice of midwifery, and we desire to see standards regulated by the state of Kansas.

Every year since I have been involved working to see some clear definition of the legality of midwifery established, I have been disappointed when the committee responsible for hearing the bill has decided not to deal with the issue of consumer safety at hand, and has hense told the midwives themselves that they need to approach the SHCC committee for credentialing. This maneuver has continued to leave the consumer unprotected and has continued to leave the issue of legality undecided. The professional organization of midwives in Kansas is not going to come about until those of you responsible for making our laws make the law to include midwives in a clear way. When there is an undefined status in the law as to a midwife's legality, there is going to continue to be hesitancy from the midwives for fear of legal reprisal from those who would interpret the laws differently. How can the SHCC committee even consider giving credentials to a profession that we in the state of Kansas have not even made clearly legal yet? We consumers feel the need to have the legality of midwifery established by you our lawmakers.

We also feel our hands have been tied when there has been a refusal from legislative committees to act upon our consumer request to pave the way for the setting of standards of care

for midwives. I have read through the Kansas Credentialing Program Manual for Applicants, and the Kansas Act on Credentialing. As I read I find that the professional group is the one that is to make application. It is out of our hands as consumers to even apply. This leaves us unprotected from midwives who will not take the initiative to apply themselves.

KSA 65-5001 makes the following definitions.

(d) "Health care personnel" means those persons whose principal functions, customarily performed for renumeration, are to render services, directly or indirectly, to individuals for the purpose of (1) Preventing physical, mental, or emotional illness;

(2) detecting, diagnosing and treating illness;

(3) facilitating recovery from illness; or

(4) providing rehabilitative or continuing care following illness;

and who are qualified by training, education or experience to do so."

KSA 65-5002 goes on to state the following

"Health care personnel seeking to be credentialed by the state shall submit a credentialing application to the secretary upon forms approved by the secretary."

Nowhere in the provisions of the SHCC is there a procedure for consumers to take initiative to apply to gain regulation of a profession they want to see controlled. So the situation

here remains that as consumers we continue in jeapordy from those not qualified to perform the duties of a midwife, and we need your action as a committee to not only assure us a freedom of choice in birth, but the freedom of a SAFE choice.

This bill establishes a framework in which standards can be established. If midwifery does not become legalized SOME couples will continue to birth at home even with incompetent midwives, or no midwives in attendance - a situation with INCREASED risk factors. Couples are going to continue to birth at home. Until standards are created in Kansas, people will not have the protection of midwives who have proven they they meet a standard of quality. Midwives will also continue to find it difficult in gaining backup from the medical community because Drs. feel liable under the present ambiguous legal climate. If standards are not established, I would hope you as lawmakers would be ready to shoulder part of the responsiblity if a baby should die due to the result of no midwife or the practice of an imcompetent midwife.

By legalizing midwifery you make a statement that qualifications and standards of care should be set. Legalization would be making a major step in providing for safe birthing at home. Legalization would be laying the ground work for cooperation within the medical community. Legalization would also be opening the doors to midwives receiving formal training within our own state - something which at present does not exist. Members of PEACE & HOME have contacted several of

the colleges and universities in the Sedgwick/ Harvey/ Butler county areas and the indication has been that with legalization, the nursing programs already established could be designed to provide a training program for midwives. This can happen only after midwifery is clearly made legal.

Legality, obviously is the crux of the issue before us today. No credentials can be given to a profession that is not legal. No training will be provided by educational institutions until midwifery is made clearly legal. Drs. will continue to be hesitant about placing themselves in a situation of liability which is created when midwifery is not clearly legal. The varieties of care and experience offered by midwives will still cause chaos within the state of Kansas until midwifery is made legal.

I ask you to give the consumers of Kansas the protection from the laws that we deserve. I ask that you pave the way for midwifery in Kansas to be legal.

Signed E. Rogers

To: Kansas Senate Committee on Public Health and Welfare
From: Linda E. Davis-Stephens
Re: Senate Bill No. 125-- Midwifery Practice Act
Date: February 13, 1985

Mr. Chairman, Senator Ehrlich, and Members of the Committee:

Thank you very much for allowing me to speak to you today about Senate Bill No. 125-- Midwifery Practice Act. The legislature can greatly benefit the people of Kansas by passing Senate Bill 125. This looks like a wonderful bill, but I think it could be better. Although improvements could be made, the bill should be passed basically as it is to protect and enforce rights of the birthing families of Kansas. The present need exists as it has for generations that parents have access to skill and knowledge for the birthing of children. Parents-to-be should be free from arbitrary or unreasonable restraint and free to associate with whom they choose to attend their births. The State should be allowed to reasonably regulate and protect childbirth in the best interest of the individual citizen.

As students of law at Washburn University, my husband and I have become active in the American Civil Liberties Union. A current concern of the ACLU in the state and the nation is this Senate Bill 125. The ACLU is watching what decision the Kansas Legislature makes regarding the licensure of midwives. Although presently there is no specific ACLU policy concerning midwifery and birthrights there exist certain policies on family rights which may be relevant to creating a new policy statement. What I testify to here is not an official position held by the ACLU. Although I would like to graciously acknowledge the ideas and dialogue certain law professors have shared with me on the birthrights issues, I must state that this testimony expresses my personal position. I would also like to mention that an ACLU law suit on midwifery, which is pending in Colorado, and an anti-trust suit on midwifery, pending in Tennessee, may also effect policy formation.

Civil liberties and constitutional issues in childbirth make licensure of midwives a family issue. The parents have an obligation to provide a birthing environment in the best interest of the child. Their choice of who attends the birth is their main responsibility. In a vaginal delivery, once active labor has begun it is the skill of the attendant, not the setting, which has significant effect on the success of the normal birth process. If the parents fail to provide for the best interest of the child, the state interest could come in by regulation of childbirth. If an out-of-hospital birth would, in certain cases, be in the best interest of the child the State should not prohibit or unreasonably regulate out-of-hospital births.

In conversation with one of the legislative researchers, it

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Attachment VII

has become apparent that the information concerning midwifery in Kansas is inadequate. The researcher, who has handled the inquiry into midwifery issues,holds a misleading view which seems to have been influenced by an unfortunate personal experience. The failure to be adequately informative may not have been intentional. However, there are facts and data which the Legislative Committee may not be familiar with due to the detrimental effect of biased research. People must be thoroughly informed to make responsible choices. The Committee should take a fresh look at lay midwifery and childbirth in Kansas. My husband and I would be glad to work with the Committee in collecting data, gathering information, and providing resource materials to make a better foundation for legislative decision-making. For over three generations bills have appeared before the Kansas Legislature to regulate midwives. Senate Bill Number 125 should be the one to pass and become law.

In Attorney General Opinion No. 78-164 the following is stated: "Any person who intentionally aids, abets, advises, hires, counsels or procures midwives to practice obstetrics may be charged with involuntary manslaughter". The Attorney General defines midwifery and obstetrics by using Webster's New Third International Dictionary. The definition should be dealt with in a different manner using the Oxford English Dictionary: midwifery is the art or practice of assisting women in childbirth; obstetrics pertains to midwifery as a larger signification than midwifery in its usual sense. The Opinion treats the two words--midwifery and obstetrics-- as if they are synonymous. If they are not synonymous then the definition of the Opinion is irrelevant. It should not be taken for granted that obstetricians would fulfill the office of the midwife. Nor should it be presumed that procurring a midwife not to practice obstetrics would keep her from being charged with involuntary manslaughter. The opinion should be challenged on philosophical grounds.

A midwife observes and records a natural, sexual process of birth. An obstetrician practices midwifery as a medical procedure and delivers a child by interference. Interfering unnecessarily increases possible risk factors and chances for malpractice liability, and sacrifices safety for convenience.

In Oregon the mortality rate for out-of-hospital birth was significantly lower than in-hospital. Data around the country is being published that show comparison of hospital with homebirth. By passing Senate Bill 125, Kansas could join in the progressive move to gather scientific data and provide an efficient cost containment policy in public health and welfare. A cost containment policy could be implemented to decrease the financial burden of childbearing. Senate Bill 125 could be used to encourage healthy competition in service-oriented fields relevant to childbirth. Senate Bill 125 could be an effort to control health care expenditures through the development of services provided at the community level as an alternative to institutionalization.

Chances for malpractice liability increase with the high-tech, high risk medical procedure in hospital birth. The common sense of reality favors allowing the skill of attendants at birth. The birth of babies is relatively unpredictable. A skilled birth attendant

can provide information that could prevent a tragedy. Some births would be less risky if out-of the hospital. If decreasing risk would bring down the cost of malpractice insurance, then out-of-hospital births could be more cost effective for our economy as a whole.

The expectant parents' freedom of choice in childbirth depends on their unrestrained access to information, attendants, and facilities. Senate Bill 125 promotes freedom of choice in childbirth by increasing parents' access to licensed birth attendants in home-based facilities with access to medical, institutional support. The Senate Committee's support for Senate Bill 125 would promote parents' free choice in childbirth, midwives' attendance at safer, high quality births, society's free trade system, and the State's interest in the health and welfare of the individual.

Thank you for your consideration.

Sincerely,

Linda E. Davis-Stephens

Linda E. Davis-Stephens
1126 S. W. College Ave.
Topeka, KS 66604

Attached Brochures: Birth Trap, The Legal Low-Down on High Tech Obstetrics

Home Birth, A Practitioner's Guide to Birth Outside the Hospital

Birthing: The Medical Facts

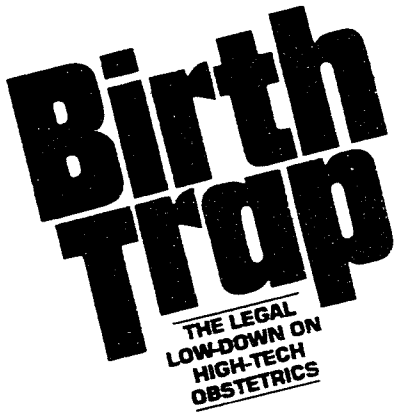
Seven million American men and women will become parents this year. Most of them will choose a hospital delivery because—they assume—hospitalization is safer for both mother and child. Even though the mother may relinquish control over herself and her baby. Even though she may face dehumanizing experiences and surroundings. Even though both parents may lose the critical "bonding" experience with their child. **Even though both infant and maternal death rates are highest for large hospitals with large obstetrical units.**

Now a trio of highly skilled and experienced legal and health care professionals explodes the myth of hospital birth safety. **Birth Trap** clearly and factually documents the questionable procedures that pervade the physical, psychological, emotional, and financial costs of hospital birth, including

- why such risky high-tech interventions as induction, electronic fetal monitoring, intravenous feeding, and obstetrical drugs are routinely prescribed.
- why (often unnecessary) birth technology increases as the number of obstetricians increases (the government forecasts a surplus of 10,000 obstetricians by 1990).
- why obstetrics is now the third highest paid medical specialty.
- why obstetricians now declare that *all* mothers and babies are high risk.
- why cesarean sections more than *tripled* between 1970 and 1980, even though the mortality rate is four times higher for infants delivered surgically than for infants delivered vaginally.

Birthing: Your Legal Rights

Every parent-to-be can be responsible for and participate in the birthing process—armed with the information in this book. Meticulously detailed and referenced—



often using the actual words and experiences of parents —**Birth Trap** tells you how to

- recognize what can go wrong in hospital births—and what may have gone wrong with yours.
- learn about birth centers and other alternatives to hospital birth.
- become aware of your legal rights and how you can enforce them—including your choice of setting and professionals . . . controlling the use of drugs in labor and delivery . . . informed consent . . . and when—and how—to sue.

Contents:

Yvonne Brackbill is a research psychologist with an international reputation in the area of maternal and child health. Dr. Brackbill is the author of 78 articles and 13 monographs, chapters and books. A consultant to the American Foundation for Maternal and Child Health, Dr. Brackbill recently testified before a congressional committee regarding the use of drugs during pregnancy. Dr. Brackbill is both Graduate Research Professor, Department of Psychology, and Professor, Obstetrics and Gynecology, Medical School, at the University of Florida.

June Rice is Assistant Public Defender for the 16th Judicial Circuit in Key West Florida, with a background in social work and correctional administration. As a result of her defense of a midwife in St. John's County, Florida, that county's outmoded midwifery statute was recently declared unconstitutional. Ms. Rice's son, Austin John Rice-Stitt, was born at home with a midwife assistance.

Diony Young is a medical writer with extensive experience researching and writing medical, scientific, and technical publications and reports. She is on the Board of Consultants for the International Childbirth Education Association, a member of the New York State Perinatal Advisory Council, and on the Advisory Committee on Accreditation and Curriculum Development of the American College of Nurse-Midwives.

YES!

I want to know more about birthing—the medical facts and my legal rights. Please send me _____ copies of **Birth Trap:** *The Legal Low-Down on High-Tech Obstetrics*, at $9.95 per paperback copy. Eliminate postage and handling by sending a check or using your credit card.

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Robert S. Mendelsohn, M.D.

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A MIDWIFERY FOR MEN

Theaetetus. I can assure you, Socrates, that I have tried very often to answer your questions; but I can neither persuade myself that I have any answer to give, nor hear of anyone who answers as you would have him. I cannot shake off a feeling of anxiety.

Socrates. These are the pangs of labor, my dear Theaetetus; you have something within you which you are bringing to birth.

Theaet. I do not know, Socrates; I only say what I feel.

Soc. And did you never hear, simpleton, that I am the son of a midwife, brave and burly, whose name was Phaenarete?

Theaet. Yes, I have.

Soc. And that I myself practise midwifery?

Theaet. No, never.

Soc. Let me tell you that I do, my friend; but you must not reveal the secret, as the world in general has not found me out; and therefore they only say of me, that I am the strangest of mortals, and drive men to their wits' end. Did you ever hear that too?

Theaet. Yes.

Soc. Shall I tell you the reason?

Theaet. By all means.

Soc. Bear in mind the whole business of midwives, and then you will see my meaning better. By the use of potions and incantations they are able to arouse the pangs and to soothe them at will; they can make those bear who have a difficulty in bearing, and if they think fit, they can smother the embryo in the womb.

Theaet. They can.

Soc. Did you ever remark that they are also the most cunning matchmakers, and have a thorough knowledge of what unions are likely to produce a brave brood?

Theaet. No, never.

Soc. Then let me tell you that this is their greatest pride, more than cutting the umbilical cord. And if you reflect, you will see that the same art which cultivates and gathers in the fruits of the earth, will be most likely to know in what soils the several plants or seeds should be deposited.

Theaet. Yes, the same art.

Soc. And do you suppose that with women the case is otherwise?

Theaet. I should think not.

Soc. Certainly not; but midwives are respectable women and have a character to lose, and they avoid this department of their profession, because they are afraid of being called procuresses, which is a name given to those who join together man and woman in an unlawful and unscientific way; and yet the true midwife is also the true and only matchmaker.

Theaet. Clearly.

Soc. Such are the midwives, whose task is a very important one, but not so important as mine; for women do not bring into the world at one time real children, and at another time counterfeits which are with difficulty distinguished from them; if they did, then the discernment of the true and false birth would be the crowning achievement of the art of midwifery--you would think so?

Theaet. Indeed I should.

Soc. Well, my art of midwifery is in most respects like theirs; but differs in that I attend men and not women, and I look after their souls when they are in labor, and not after their bodies; and the triumph of my art is in thoroughly examining whether the thought which the mind of the young man is bringing to birth, is a false idol or a noble and true spirit.

And like the midwives, I am barren, and the reproach which is often made against me, that I ask questions of others and have not the wit to answer them myself, is very just; the reason is, that the god compels me to be a midwife, but forbids me to bring forth.

And therefore I am not myself at all wise, nor have I anything to show which is the invention or birth of my own soul, but those who converse with me profit. Some of them appear dull enough at first, but afterwards, as our acquaintance ripens; if the god is gracious to them, they all make astonishing progress; and this in the opinion of others as well as their own.

It is quite clear that they had never learned anything from me; the many fine discoveries to which they cling are of their own making. But to me and the god they owe their delivery. And the proof of my words is, that many of them in ignorance, either in their self-conceit despising of me, or falling under the influence of others, have gone away too soooon; and have not only lost the children of whom I had previously delivered them by an ill bringing up, but have stifled whatever else they had in them by evil communications, being fonder of lies than of the truth; and they have at last ended by seeing themselves, as others see them, to be great fools. Dire are the pangs which my art is able to arouse and to allay in those who consort with me, just like the pangs of women in childbirth; night and day they are full of perplexity and travail which is even worse than that of women.

So much for them. And there are others, Theaetetus, who come to me apparently having nothing in them; and as I know that they have no need of my art, I coax them into marrying some one, and by the grace of God I can generally tell who is likely to do them good. Many of them I have given away to Prodicus, and many to other inspired sages.

I tell you this long story, friend Theaetetus, because I suspect, as indeed you seem to think yourself, that you are in labor--great with some conception. Come then to me, who am a midwife's son and myself a midwife, and try to answer the questions which I will ask you. And if I abstract and expose your first-born, because I discover upon inspection that the conception which you have formed is a vain shadow, do not quarrel with me on that account, as the manner of women is when their

first children is taken from them. For I have actually known some who were ready to bite me when I deprived them of a darling folly; they did not perceive that I acted from good will, not knowing that no god is the enemy of man--that was not within the range of their ideas; neither am I their enemy in all this, but it would be wrong in me to admit falsehood, or to stifle the truth.

Once more, then, Theaetetus, I repeat my old question, "What is knowledge?" and do not say that you cannot tell; but quit yourself like a man, and by the help of God you will be able to tell.

--Plato, Theaetetus

9

FEBRUARY 1985

DEAR SENATOR'S;

My name is Darcy Allison. I am a member of Peace and Home Association of Wichita, Kansas. I am here to express to you the need for legalization of Midwifery in Kansas.

The need for legalization has come about with the need's of consumer's who are asking for a choice to birth their children at home with good competent care. To be able to seek out care with a midwive who is trained and well educated in her field and is licensed by the State.

Since 1978 the Midwifery issue has been tossed from one committee to another,
This has left the consumer's choice in CHAOS. This also left open the degree of quality care provided by midwives. Every lay-midwife at this time in this state has such a variety of practices that the mode of care is in chaos. We as a consumer group want to see midwifery as an option that can be a good safe and legal choice in childbirth.

Peace and Home has worked for this legalization since 1978. Peace and Home represents the largest consumer group in Kansas which consists of both home and hospital couples. Our clientele is from all walks of life, including people such as nurse's; pediatrician's, and executive's, etc.

These handout's represent ONLY Peace and Home and reflect's no one else. As an example, we are giving these to you so that you can understand that midwives can be and are a part of a group who are desiring to birth at home safely and with competent care. I would also like to point out that these statistics show that we do believe in hospital/ doctor backup and that we do use this option when it is necessary. We also receive referrals from obstetrician's to our organization. If you will take the time to look at theses statistics, you will see that they are quite extensive and thorough.

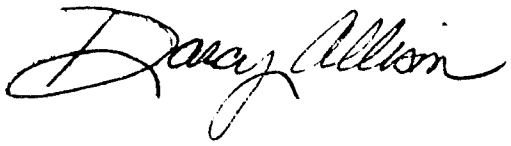
Peace and Home standard's, guidelines for practice, and Code of ethics have been established to provide the quality care within our group to protect the consumer's need's until at the time the State of Kansas decide's to establish and legalize Midwifery, with standard's of care of their own.

We are very willing to be further educated and have made many inquery's to school's within our area to foresee the possibility of education in Midwifery. Two college's have given us the option's of program's of Midwifery if it should become legal.

2/14/85
Attachment VIII

I would like to lastly say that many people choose to have their children at home for various reason's. If we are left without legalization, we are putting those families also into chaos. People will choose to have their children at home now and in the furture. I would like to see my children have the choice to birth their children wherever they choose. If they do choose a home birth I want them to be able to choose good competent LEGAL midwive's to care for them. Please help us to legalize Midwifery and provide care that is very much needed at this time and for our furture.

Thankyou,
Darcy Allison
Peace and Home Association.



These Statistics represent only Peace and Home midwives. Although the number of births has declined in recent years, it is not because of low clientele, but because we can not meet the demand asked of us. Our families and other committments also demand of us. We have lowered the monthly clientele to meet those demands.

These statistics refer only to 1978 through1983. This year (1984) statistics are not complete yet. A break down of 1983 statsistics are included, also a sheet on how they are obtained.

PEACE & HOME

Association, Inc.

WICHITA BRANCH HOME BIRTH STATISTICS

1978 - 1983

Total Births	120
Births in 1978	2
Births in 1979	2
Births in 1980	6
Births in 1981	24
Births in 1982	57
Births in 1983	28
First Time Mothers	34
Transported To Hospital	14
Vertex Babies	116
Breech Babies	4
Face Presentation	1
Reasons For Transfer To Hospital During Labor	
Fetal Distress	3
Prolonged 2nd Stage	6
Prolonged Rupture of Membranes	5
Breech Presentation	4
Hemorrhage	
CPD	4
Maternal Complications	
hemorrhage (Post-partum)	9
Controlled quickly at home	7
Transported (1 was because of Placenta Accreta)	2
Tears	27
Healed without Sutures nicely	23
Sutures	3
1st Degree	15
2nd Degree	7
3rd Degree	3
4th Degree - beyond epis.	1
Prolonged Rupture of Membranes	5
Transported at 24 hours	5
Infections	0
Complications of Pregnancy	
Pre-eclampsia	1
Polyhydramnios	1
(1 Downs's Syndrome - birthed in hospital)	

Cesarean Sections	8
Transported After Labor at Home	5
Determined Before Labor Started	3
Reasons	
CPD	6
Breech Position (1 Footling)	2
Neonatal Complications	
RDS (Transported)	2
Congenital Abnormalities	2
Birth Injuries	0
Hemolytic Anemia (ABO Incompatibility requiring transfusion)	1
Drop in FHT	2
Shoulder Dystocia	4
Neonatal Jaundice	11
Handled at Home Under Physician's Care	9
Hospitalized	2
Total Neonatal Transfers to Hospital	3
Longest Labor	49½ hours
Shortest Labor	45 minutes
Missed Births by Midwives	5
Total Males	56
Total Females	64
Largest Baby	10 lbs
Smallest Baby	5 lbs. 8 ozs.
Apgar Scores	
9 at 1 and 5 min.	79
8 - 10 at 5 min.	28
7 or under at 5 Min.	13
Total Perinatal Deaths	0
Total Maternal Deaths	0
Total Stillborns	0

1983

Total Births	28
First Time Mothers	9
Transported to Hospital	9
Vertex Babies	28
Breech Babies	0
Face Presentations or other malpresentations	1
Reasons for Transfer to Hosp. -	
Fetal Distress	2
Prolonged 2nd Stage	3
Prolonged Rupture of Membranes	2
Breech	0
Hemorrhage	0
CPD	3
Maternal Complications	
Hemorrhage (post partum)	2
Controlled at home	2
Transported	0
Tears	10
Healed without Sutures	6
Sutured	3
1st Degree	4
2nd Degree	4
3rd Degree	1
4th Degree (episiotomy with transport with further tear	1
Prolonged Rupture of Membranes	2
Transported in 24 hours	2
Infections	0
Complications in Pregnancy	
Pre-eclampsia	1
Polyhydramnios	0
Cesarean Sections	3
Transported After Labor at Home	3
Determined Before Labor Started	0
Reasons	
CPD	3
Breech	0
Other	0
Neonatal Complications	
RDS (Transported)	1
Congenital Abnormalities	0
Birth Injuries	0
Shoulder Dystocia	3
Neonatal Jaundice	3
Handled at Home	3
Transported to Hosp	0
Total Neonatal Transfers to Hospital	1
Longest Labor	34 hours
Shortest Labor	45 min.
Missed Births by Midwives	2
Total Males	12
Total Females	16
Largest Baby	9 lbs. 8 ozs.
Smallest Baby	6 lbs. 7 ozs.
Apgar Scores	
9 at 1 and 5 min	12
8 - 10 at 5 min	12
7 or under at 5 min	4
Total Perinatal Deaths	0
Total Maternal Deaths	0
Total Stillborns	0

statute of limitations and such statute of limitations shall remain tolled until thirty (30) days after the screening panel has issued its written recommendations.

History: L. 1976, ch. 249, § 8; July 1.

LIABILITY LIMITATIONS

65-4909. Limited liability for certain associations of health care providers, review organizations and committee members thereof; good faith requirement. (a) There shall be no liability on the part of and no action for damages shall arise against any state, regional or local association of health care providers, any state, regional or local association of licensed adult care home administrators or any organization delegated review functions by law, and the individual members of any committee thereof (whether or not such individual members are health care providers or licensed adult care home administrators), which in good faith investigates or communicates information regarding the quality, quantity or cost of care being given patients by health care providers or being furnished residents of adult care homes for any act, statement or proceeding undertaken or performed within the scope of the functions and within the course of the performance of the duties of any such association, organization or committee if such association, organization or committee or such individual member thereof acted in good faith and without malice.

(b) As used in this section, "health care provider" means a person licensed to practice any branch of the healing arts, or engaged in a postgraduate training program approved by the state board of healing arts, licensed dentist, licensed professional nurse, licensed practical nurse, licensed optometrist, registered podiatrist, registered pharmacist or registered physical therapist.

History: L. 1976, ch. 267, § 2; L. 1978, ch. 262, § 1; July 1.

Cross References to Related Sections:

Limited liability for medical care facilities and certain officials, see 65-442.

Immunity from liability in civil actions for reporting or investigating certain information, including alleged malpractice incidents, see 65-1127, 65-1462, 65-1515, 65-1652 and 65-2898.

Law Review and Bar Journal References:

Cited in "KMS Impaired Physician Program—Statement of Purpose," 80 J.K.M.S. 27, 29 (Aug. 1979).

MALPRACTICE STUDY COMMISSION

65-4910 to 65-4913.

History: L. 1976, ch. 327, §§ 1 to 4; July 1.

Revisor's Note:

This act expired on December 31, 1978, see L. 1976, ch. 327, § 4.

Article 50.—CREDENTIALING

65-5001. Credentialing health care personnel; definitions. As used in this act unless the context requires otherwise, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Credentialing" or "credentialed" means the formal recognition of professional or technical competence through the process of registration or licensure.

(b) "Registration" means the process by which the state identifies and lists on an official roster those persons who meet predetermined qualifications and who will be the only persons permitted to use a designated title.

(c) "Licensure" means a method of regulation by which the state grants permission to persons who meet predetermined qualifications to engage in an occupation or profession, and that to engage in such occupation or profession without a license is unlawful.

(d) "Health care personnel" means those persons whose principal functions, customarily performed for remuneration, are to render services, directly or indirectly, to individuals for the purpose of: (1) Preventing physical, mental or emotional illness;

(2) detecting, diagnosing and treating illness;

(3) facilitating recovery from illness; or

(4) providing rehabilitative or continuing care following illness;

and who are qualified by training, education or experience to do so.

(e) "Council" means the statewide health coordinating council created by K.S.A. 65-4705.

(f) "Secretary" means the secretary of health and environment.

History: L. 1980, ch. 181, § 1; July 1.

65-5002. Same; credentialing applications. Health care personnel seeking to be