Approved 2-18-87
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 6, 1987 in room 526-S of the Capitol.

All members were present except:

Committee staff present:
Emalene Correll, Legislative Research
Bill Wolff, Legislative Research
Norman Furse, Revisor of Statutes Office
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:
John Peterson, Kansas Association of Professional Psychologists
Richard Maxfield, Ph.D., Chief Psychologist, Diagnostic and Consultation Service, Menninger Foundation
Randee Jae Shenkel, Ph.D., Kansas Association of Professional Psychologists
Paul Klotz, Executive Director, Association of Community Health Centers of KS
Judy Shorman, Intracorp
Michael Byington, Kansas Association for the Blind and Visually Impaired, Inc.
Linda R. Johnson, President, League of Women Voters, Written Testimony only
Naomi Isenbart-Strong, Written Testimony only
Wayne Probasco, Executive Secretary, Kansas Podiatric Medical Association, Written Testimony only
Becky Gish, Rehabilitation Counselor, Written Testimony only
Bill Morse, Vocational Counselor, Written Testimony only
Jan Britton, Rehabilitation Counselor, Written Testimony only

Others attending: see attached list

John Peterson testified and presented written testimony to the committee opposing SB-78. (attachment 1) Mr. Peterson stated that last year the Special Legislative Committee on Public Health and Welfare examined the credentialing process. It was noted that technical committee reviews had resulted in recommendations for credentialing when criteria had not been met and that they ignored certain standards. Mr. Peterson distributed copies of the criteria of the committee. (attachment 2) Also distributed was Criteria and Standards For Determining The Need For Credentialing. (attachment 3) Mr. Peterson stated that the wording in last year's SB-590 contained a definition with wording similar to that used in several other states and no problem was found with that definition or possibly with one put forth by the Kansas Medical Society. Finally, Mr. Peterson stated that it was necessary to deal with the issue of what the appropriate scope of practice would be.

Richard Maxfield, Ph.D., testified. Written testimony was presented to the committee on February 3, 1987, attachment 15. Dr. Maxfield stated that the Kansas Psychological Association supports the idea of statutory regulation of professions to insure the protection of the public from unqualified or unethical providers. Serious reservations were expressed about SB-78 concerning the scope of practice which this bill would enact. The definition is too broad and would allow counselors to diagnose and treat persons suffering from mental disease and illness.

Randee Shenkel, Ph.D., testified and presented written testimony opposing SB-78. Dr. Shenkel stated that if there had been no revolutionary changes since the original application, it seemed safe to assume that the applicant group is still not trained to diagnose or treat mental illness but when qualifications are studied in detail, it is apparent that counselors are trained to advise mentally healthy individuals. The SHCC committee seemed to recognize counseling as a field that applies to non-emotionally disturbed individuals. Dr. Shenkel continued by stating that she hoped the confusion in sorting out psychiatry, psychology, etc. was not further encouraged among

the general population by licensing counselors to perform services for which they have not been trained. (attachment 4)

Paul Klotz testified in opposition to SB-78. Written testimony was presented to the committee by Mr. Klotz from Charles Kunce, Ph.D., Chairman, Mental Health Centers of Kansas on February 5, 1987, attachment 5. Mr. Klotz testified that he was in agreement with the testimony of John Peterson, Dr. Maxfield and Dr. Shenkel. An amendment was offered in the written testimony, not dissimilar to ones offered by Jerry Slaughter and John Peterson.(attachment 12)

Judy Shoreman, representing Intracorp, testified and presented written testimony on SB-78. Intracorp is an international disability management corporation. Ms. Shoreman stated concerns regarding SB-78, one of which is that the definition for counseling is too broad; also private rehabilitation coordinators are not excluded from the bill and that Section 13, b, is not clear. (attachment 5)

Michael Byington testified in opposition to SB-78. Written testimony was submitted to the committee February 3, 1987, attachment 16. Mr. Byington stated that in the Kansas Credentialing Act, licensure is defined as the establishment of an exclusive scope of practice. Counseling is too general a term for such restriction. Mr. Byington further stated that it was felt that the Kansas Credentialing Act provides a good structure to protect the public from harm and if guidance from that act is followed to the letter then counselors should be registered, not licensed.

Written testimony by Naomi Isenbart-Strong was presented to the committee concerning SB-78. Ms. Isenbart-Strong urged committee support for SB-78. (attachment 6)

Written testimony concerning SB-86 by Linda R. Johnson was presented to the committee. Ms. Johnson opposed SB-86 stating that it appeared to be less a public welfare measure than an instrument of social policy brought forth by opponents of abortion. (attachment 7)

Written testimony by Wayne Probasco in support of SB-35 was presented to the committee. Mr. Probasco stated his organization supported SB-35. (attachment 8)

Written testimony by Becky Gish in support of SB-78 was presented to the committee. (attachment 9)

Written testimony by Bill Moore in support of SB-78 was presented to the committee. (attachment 10)

Written testimony by Jan Britton in support of SB-78 was presented to the committee. (attachment 11)

The Chairman announced that the committee would not be meeting Monday, February 9, 1987; however, the subcommittee on SB-33, SB-34 and SB-35 would be meeting at 10:00 a.m. in room 526-S.

The chairman appointed a subcommittee to study SB-78 with Senator Salisbury, Senator Mulich and Senator Anderson as members. Senator Salisbury will serve as chairperson.

The committee will meet February 10, 1987, at 10:00 a.m. Meeting adjourned at 10:56 a.m.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE
DATE 2-6-87

(PLEASE PRINT) NAME AND ADDRESS	ORGANIZATION
Larry Hurt	SRS/ADAS
Mary Ann Mabel	BSRB
John Peterson	Ks Assn Prof Psychologist
Paul Klotz	Assn. of CMHCs of Ks.
Jim Beer	KAMFT
R Mayfield	Ks Psychological Assoc.
Randra Jan Shenkel	Kansas Assoc. Prof Psychologist
Clyde Ramsey	Kansas Assn. Prof. Psychologists
Nancy Bronaugh	Ks Medical Society
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Tom Bell	Ks. Hosp. Assn.
Jean McBride	observer
Frances Kastner	KAPTA
Fred Bradley	Observer
James Lichtenberg	observer
Edward Heck	observer
Jacque Oakes	KHCD
Harold Hulka	American Mental Health Counselor Assoc.
Lois Reimer	Kansas College Personnel Assoc.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-16-87

(PLEASE PRINT) NAME AND ADDRESS	ORGANIZATION
Pat Grimwood	Kansas Assoc. for Couns & Devel.
Lloyd A. Stone	KACD
Alan Steacy	K.R.C.A
Helen Stephens	KACD
Laynie Hartman	Kansas Bar Association
Gail Hamilton	KS N.O.W.
Michael J. Byington	Ks. assn. for the Blind and V.I. Inc.
Judy Shorman	Intracorp
THERESA Shively	KANSAS NIAAA
Elizabeth E. Taylor	Ks Alcs + Drug Program Director Ks Alcs + Drug Counselors Assn
Darlene Stearns	RCAR in Kansas

TESTIMONY
SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

KANSAS ASSOCIATION OF PROFESSIONAL PSYCHOLOGISTS

JOHN PETERSON
February 3, 1987

Mr. Chairman, members of the Committee, my name is John Peterson, and I am appearing on behalf of the Kansas Association of Professional Psychologists.

Last year the Special Legislative Committee on Public Health and Welfare, examined the credentialing process. The Committee expressed reservations regarding recent credentialing recommendations. Specifically they noted that technical committee reviews had resulted in recommendations for credentialing when the criteria had not been met, that they ignored certain standards, underplayed others, and accepted criteria as met even though the criteria of the standards were largely unmet.

At the time of that review, the professional counselors had just completed the process. The interim committee's recommendations discuss exactly what happened with their application.

Criteria 1 requires a finding that the "unregulated practice of the occupation or profession can harm or endanger the health, safety or welfare of the public . . . ." There are three

SP&W
2-6-87
Attachment 1

subcriteria as to how the potential for harm may be present. The technical committee found the applicant group had failed to demonstrate (1) the inherently dangerous nature of the occupation's functions or (2) the inherently dangerous nature of devices or substances used in performing the occupations functions. The Committee concludes, however, that because sub-3 was met, "the frequent exercise of an observable degree of independent judgment," that they therefore meet Criteria 1. I would suggest that that finding in and of itself is not sufficient to reach a conclusion that the unregulated practice can harm or endanger the health, safety or welfare of the public. There are literally thousands of professions which exercise an observable degree of independent judgment which in no way will, if unregulated, harm or endanger the health, safety and welfare. Given the negative finding on Criteria 1A1 and 1A2, the appropriate finding should have been that Criteria 1 had not been met.

Next, the technical committee, correctly found that under Criteria 2 dealing with the need for specialized skill and training that the applicant group currently does not meet A(1) and failed to meet Standard A(2) requiring a showing of "the increased frequency of actual instances of harm to consumers when such study or training is absent or inadequate for the practice of the occupation". The standards clearly require that the need

shall be demonstrated by both A(1) and A(2). They met neither yet the technical committee still found that Criteria 2 had been met.

In summary, Mr. Chairman and members of the Committee, it would be my recommendation that based upon the specific findings that Standard A1 and A2 under Criteria 1 were not met, that Criteria 1 therefore has not been met; and that based upon the specific finding under Criteria 2 that Standard A1 and A2 have not been met, that Criteria 2 has not been met. You should deny credentialing, not by changing the earlier factual findings, but by applying those findings as was intended.

KKP02027OK10/11

REPORT OF FINAL FINDINGS AND RECOMMENDATIONS OF THE
TECHNICAL COMMITTEE
FOR REVIEW OF THE APPLICATION
BY KMHCA/KACD FOR CREDENTIALING
OF PROFESSIONAL COUNSELORS

Adopted at the August 28, 1985 Technical Committee Meeting

The technical committee analyzed the application for credentialing of professional counselors submitted by the Kansas Mental Health Counselors Association/Kansas Association for Counseling and Development (KMHCA/KACD) and information gathered at the technical committee meetings and the public hearing, against criteria and standards to determine the need for credentialing. This report contains the technical committee's final findings and recommendations on the need for credentialing, and the appropriate level of credentialing.

SUMMARY OF COMMITTEE'S FINDINGS AND RECOMMENDATIONS

The committee made the finding that all three criteria on the need for credentialing have been met and that the need for credentialing of professional counselors by the State of Kansas does exist. The committee recommends that professional counselors be credentialed, in the form of licensure, by the State of Kansas. The committee made other recommendations regarding the appropriate regulatory body, education/training, exceptions to legislation, and state reciprocity (see Attachment I for specifics regarding other recommendations).

SUMMARY OF APPLICATION

KMHCA/KACD seeks licensure by the State of Kansas for all professional counselors who are in private practice. The application is seeking credentialing of all persons providing mental health counseling in a private practice setting regardless of the person's counseling specialty or membership within any professional counseling associations. Professional counselors are defined by applicant as individuals who have completed a minimum of 60 graduate credit hours including a graduate degree in counseling and two years post-master's supervised experience. Approximately 178 individuals in Kansas meet this definition of a professional counselor.

All six state universities in Kansas offer master's level counseling programs (requiring 34 to 55 credit hours) and are capable of offering additional course-work, allowing a person to obtain a total of 60 credit hours called for by the application's definition of a professional counselor.

Counselors work in a variety of settings including community mental health centers, public agencies, private agencies and private practices. Most counselors work in a structured setting where they are supervised and required to have some type of accreditation or qualifications. Counselors working in a

SP&HW
2-6-87
attachment 2

structured setting would not be affected by this application unless they are also in private practice. No data regarding the proportion of counselors in private practice in Kansas are available.

Currently, anyone can legally advertise as a counselor and charge fees for counseling services in Kansas. The purpose of application is to seek protection for the public against incompetent or unethical counselors who are in private practice.

ANALYSIS OF INFORMATION GATHERED AGAINST CRITERIA AND STANDARDS TO DETERMINE THE NEED FOR CREDENTIALING

The information gathered and used for the following analyses consists of: 1) the application for credentialing by KMHCA/KACD submitted February 1984; 2) comments submitted by applicant group and interested persons listed as Exhibits A through M in the official record; 3) minutes of the April 22, 1985, May 15, 1985, and June 26, 1985 technical committee meetings; and 4) testimony presented at the July 31, 1985 public hearing listed as Exhibits O through GG in the official record.

CRITERION 1

The unregulated practice of the occupation or profession can harm or endanger the health, safety or welfare of the public and the potential for such harm is recognizable and not remote or dependent upon tenuous argument.

Harm shall be construed to be a condition representative of physical, emotional, mental, social, financial or intellectual impairment resulting from the functions performed or failed to be performed by the occupation.

I. Standards for Criterion 1

A. The potential for harm to the public's health safety and welfare may be present in the form of:

(1) the inherently dangerous nature of the occupation's function, or

Information Provided By Applicant

According to the application, the functions performed by professional counselors are not inherently dangerous (page 36). The functions of professional counselors are counseling assessment, consultation and referral. The application lists some possible examples of physical, emotional, mental, social and financial harm that could result indirectly from an erroneous or incompetent counselor (pages 35-36).

Staff Analysis

No evidence was presented to document that the functions performed by professional counselors are inherently dangerous. Harm could result to client indirectly by an incompetent counselor.

Final Committee Finding

The functions performed by professional counselors are not in and of themselves inherently dangerous; the standard is not met.

(2) the inherently dangerous nature of devices or substances used in performing the occupation's functions, or

Information Provided By Applicant

Devices most commonly used by the professional counselors are standardized instruments designed to assess an individual's attitude, abilities, achievements, interests, personal characteristics, and/or interpersonal functioning (Application, page 11). The application states that devices are not inherently dangerous but can result in harm due to incorrect assessment causing inappropriate treatment or inappropriate breach of confidentiality concerning test results (page 43).

Staff Analysis

The standardized instruments used by professional counselors for assessing the client have not been shown to be inherently dangerous. Harmful effects could occur when the results of tests are incorrectly used.

Final Committee Finding

The devices used in the practice of professional counselors are not in and of themselves inherently dangerous; the standard is not met.

(3) The frequent exercise by a practitioner of an observable degree of independent judgement when identifying or evaluating consumers' problems, planning or coordinating their care or directly delivering their care.

Information Provided By Applicant

According to the application, professional counselors are trained as direct service providers and usually provide actual treatment (Application, page 38). The counselor is responsible for mental health assessment and for recommending or providing treatment on the basis of the assessment (Application, page 37). Those clients who are out of touch with reality are referred to medical or psychiatric professionals, or a social worker if environment needs changing, and clients are referred for medical diagnosis and care if physical symptoms are present (Application, page 38). The professional counselor may work as part of a team with other providers (Application, page 38).

Staff Analysis

Professional counselors appear to exercise varying degrees of independent judgement (identifying or evaluating, planning, and coordinating care) depending on the setting of their practice.

Final Committee Finding

Professional counselors exercise an observable degree of independent judgement when assessing, planning or coordinating client's care, or directly delivering their care; the standard is met.

B. **Such potential for harm may be documented by: 1) expert testimony, 2) client or consumer testimony, 3) research findings, or 4) legal precedents, financial awards, or judicial rulings.**

Information Provided By Applicant

The application describes possible physical, emotional, mental, social, intellectual, and financial harm resulting indirectly by erroneous or incompetent care (page 35).

A letter from the Attorney General's office stated that they receive from 25 to 35 complaints per year against persons who call themselves "counselors," "therapists" or other terms (Exhibit F). The most common complaint made against these persons was that the therapist made sexual advances or engaged in sexual conduct with the client. Another common complaint was that the counselors misrepresented their credentials and attempted to treat a condition that required more extensive training.

Donna Kater, Ph.D., presented to the committee the findings of two studies (Meeting Minutes, May 15, 1985). One study investigated actual therapists and estimated that one to 36 percent of clients are harmed by treatment. Another researcher estimates that one in 10 patients is harmed by psychotherapy. Dr. Kater noted that there is no clear differentiation between counseling and psychotherapy. Dr. Kater also stated that some studies have shown that 17 percent of the therapists reported having sexually exploited their clients (Meeting Minutes, May 15, 1985).

Several newspaper clippings from the Manhattan Mercury, 1983, presented in the application described charges against a man for exhibiting pornographic films, providing liquor and engaging in sex with a minor when the girl was at the man's home for counseling.

Dr. Kater provided an example (from a client) of harm where a counselor treated a homosexual male with a cattle prod as behavorial therapy (Meeting Minutes, May 15, 1985).

Rick Gibson provided to the committee at the public hearing cases of harm of specific individuals due to untrained persons providing counseling services (Exhibit T).

Staff Analysis

The potential for harm is established by the information provided.

Final Committee Finding

Information provided shows that potential for harm to the consumer exists; the standard is met.

C. Such potential for harm may be remote when:

1) instances of impairment are infrequent or rare,

2) impairment is minor in nature, or

3) impairment is due to secondary or tertiary effects of the practice of the occupation.

Information Provided By Applicant

The letter from the Office of the Attorney General regarding number of complaints received about counselors (Exhibit F), studies siting the possible number of clients harmed by psychotherapy (Meeting Minutes, May 15, 1985), and the number of cases of sexual exploitation of client by counselors (Meeting Minutes, May 15, 1985) describes the frequency of possible harm to public. The application (page 35) describes possible harm resulting from the practice of counseling. Information from the technical committee meeting, public hearing and the application pointed out that impairment could range in nature from separation of family to a client's increased suicidal probability.

Staff Analysis

Possible harm, as established by evidence presented, is not rare or minor in nature and appears to be due to the practice of the occupation.

Final Committee Finding

The potential for harm from the practice of professional counselors is not remote; the standard is met.

D. Reduction of the potential for harm through regulation shall, when possible, be documented by comparing:

(1) instances of harm occurring when the practice of the occupation is unregulated, and

(2) instances of harm occurring when the practice of the occupation is regulated.

Information Provided By Applicant

No information provided. The applicant explained that the first state to license counselors was Virginia in 1979 and studies of comparison of before and after licensing are not available (Meeting Minutes, May 15, 1985).

Staff Analysis

Information not available.

Final Committee Finding

The reduction of the potential for harm through regulation cannot be documented at this time; the standard is not met.

CRITERION 2

The practice of the occupation or profession requires specialized skill and training, and the public needs and will benefit from assurances of initial and continuing occupational or professional ability.

II. Standards for Criterion 2.

A. A need for specialized skill and training shall be demonstrated by:

(1) use in the occupation of any identifiable scope of knowledge or procedures acquirable only through a formal period of study and/or training appropriate for such scope of practice, and

Information Provided By Applicant

Professional counselors are defined as persons with a minimum of 60 graduate credit hours, a graduate degree in counseling, and two years of post-master's supervised experience (Application, page 12). On pages 12 and 13, the application lists the ten basic areas of coursework typically required at the master's level counseling programs. These basic areas of coursework include: counseling theory, helping relationships, group dynamics, etc... These ten areas are the identifiable scope of knowledge acquired through educational curriculum.

The application shows that there are various qualifications required from Kansas educational institutions, a variety of training programs, and a wide range of hours (34 to 55 credit hours) required for a master's degree in counseling (pages 16-20). However, Lloyd Stone, Ph.D. told the committee that 60 hours worth of coursework in mental health counseling is available. (Public hearing, Exhibit U).

Information Provided By Interested Persons

James P. McHugh, Ph.D., examined the content of training in counseling programs in the areas related to the scope of practice (diagnosis, testing, psychotherapy, consultation and referral). Results were: 1) only one school offers 60 hours of coursework in mental health, 2) training in mental health practice is not exclusive, 3) coursework in individual counseling or psychotherapy is limited, 4) only one school out of a total of six requires more than one assessment course and 5) only four schools offer one consultation course (Exhibit H). Lloyd Stone provided the following information to clarify

educational preparation of counselors in Kansas: 1) sixty hours of coursework relevant to mental health counseling are available at all six schools; 2) all schools require a minimum of six hours of counseling practicum; and 3) counseling is a multi-disciplinary profession which stresses the ten core counseling courses (Public hearing, Exhibit U).

Brooke B. Collison, Ph.D., stated that the Kansas Association for Counseling and Supervision (KACES) will be able to make needed program adjustments which might be called for by credentialing (Exhibit I).

Randee Shenkel, Ph.D., believed that the appropriate approach of the counselors would be to focus on changing the program of study to provide complete and consistent training prior to seeking credentialing (Exhibit K). Ms. Shenkel stated that studies of psychotherapy are not appropriate to document harm since counselors do not do psychotherapy. (Meeting minutes, June 26, 1985).

Ron Evans, Ph.D. believed that two years of study (60 semester hours) is not sufficient preparation for independent practice. It is sufficient to practice under supervision (Public hearing, Exhibit BB).

Staff Analysis

The application identified a scope of knowledge acquired through formal education for the defined scope of practice. Presentation by interested persons pointed out that program adjustments are needed to strengthen and standardize coursework in primary areas defined by scope of practice to train counselors planning to be in private practice.

Final Committee Finding

The standard is not met. The committee recognizes that professional counselors do have specialized and extensive skills and training and that the competencies needed for private practice can only be acquired through a formal period of study and/or training. During the credentialing process however, the scope of knowledge necessary to obtain the skills competencies needed could not be adequately defined by the applicant partly because of problems in the definition of the scope of practice. Because of the definitional problems the standard could not be met at this time. The committee recognizes that this problem could be resolved in a later stage of the credentialing process.

(2) Increased frequency of actual instances of harm to consumers when such study or training is absent or inadequate for the practice of the occupation.

Information Provided By the Applicant

None

Information Provided By Interested Persons

None

Staff Analysis

No documentation was provided that showed actual instances of increased frequency of harm to consumers from the absence of training of professional counselors.

Final Committee Finding

Increased frequency of actual instances of harm to consumers when such study or training is absent or inadequate cannot be documented at this time; the standard is not met.

B. The public needs will benefit by assurances of ability when:

(1) there is objective and subjective evidence that consumers benefit from the practice of the occupation,

Information Provided By Applicant

The application notes that clients are frequently referred to professional counselors from a variety of sources (page 9). A national sample of private counselors showed that referrals commonly come from physicians, former clients, and professional colleagues (page 9).

The application stated that counselors are often the first mental health professionals that the public seeks for help. The conditions the counselor treats relate to personal, social, emotional, mental and career adjustment (page 10). The counselors provides limited treatment to clients who are out of touch with reality.

Staff Analysis

Information provided by the application supports the premise that professional counselors provide a valuable service to consumers.

Final Committee Finding

There is evidence that consumers benefit from the practice of professional counselors; the standard is met.

(2) consumers are unable through ordinary and reasonable means to judge the competence of a practitioner or to assess whether the outcome is beneficial or harmful.

Information Provided By Applicant

The application stated that the consumer frequently is not able to judge objectively and competently whether the outcome is healthy and constructive or unhealthy and destructive (page 39). A typical client may be able to observe or judge subjectively results of counseling (page 39). Donna Kater stated, "Sometimes a less competent counselor is viewed more positively than one who confronts and firmly encourages the client towards positive but frightening change" (Exhibit A, page 7).

Staff Analysis

Consumers most likely subjectively determine if services provided by a counselor are beneficial to them. However, as the applicant noted, a client's mental state can make judgement of actual competency by the consumer difficult.

Final Committee Finding

Consumers are not able to judge the competence of a practitioner or to assess whether the outcome of professional counseling services provided is beneficial or harmful; the standard is met.

(3) changes in or maintenance of the occupation's skills, knowledge, or techniques require the practitioner to undergo continuing study or training in order to meet current standards, and

Information Provided by Applicant

Over the past 20 years, numerous additions and refinements of knowledge and skills have developed in the practice of counseling; (Application, page 40).

Developments have occurred in such areas as:

1) understanding how potent the mind is as an influence on emotions and behavior, resulting in the focus of counseling on health and strength,

2) improved assessment techniques, and

3) the study and development of effective consultation techniques (Application, page 40).

Jon Sward, Ph.D. explained to the committee that counseling is the newest and youngest mental health discipline and a hybrid profession using knowledge from various disciplines (Exhibit M).

Staff Analysis

The information presented leads to the conclusion that changes in the field of mental health are common and that maintenance of skills and knowledge would require the counselor to continue their training/study to stay current.

Final Committee Finding

Changes in the maintenance of the occupation's skills, knowledge, or techniques require professional counselors to undergo continued study or training in order to meet current standards; the standard is met.

(4) Mechanisms exist to assure consumers of initial and, if necessary, continuing ability in the practice of the occupation.

Information Provided By Applicant

The primary purposes of the National Board for Certified Counseling are to establish a national certification process, identify counselors who have national certification, and to maintain a register of certified counselors. However, obtaining certification is on a voluntary basis (Application, page 20).

According to the application, there are national and state associations responsible for reviewing ethical standards and practices of counselors who are members. However, membership in these organizations is voluntary and the organizations have no legal recourse over non-members (page 41).

There are mechanisms to allow for counselors to receive continuing education (Application, pages 22-23). However, there are no mechanisms to enforce continuing education.

Staff Analysis

It appears that no system exists to assure continuing ability and ethical behavior of counselors in private practices.

Final Committee Finding

No mechanism exists to assure consumers of initial and, if necessary, continuing ability in the practice of the occupation and credentialing could provide such a mechanism; the standard is met.

CRITERION 3

The public is not effectively protected from harm by means other than credentialing.

III. Standards for Criterion 3

A. Insufficient protection of the public from harm and assurance of ability by means other than credentialing shall be demonstrated through:

(1) inadequate supervision by practitioners of a regulated occupation,

Information Provided By Applicant

The applicant is concerned with counselors in private practice. Counselors in private practice are not supervised and at this time no counselors are regulated. According to Jon Sward, no state certification processes are available in Kansas for counselors (Exhibit A).

Staff Analysis

Counselors are not regulated by the state and counselors in private practice are not under any type of supervision.

Final Committee Finding

This standard does not apply since counselors are not regulated at this time.

(2) inadequate laws governing devises and substances used in the occupation and their effective enforcement,

Information Provided By Applicant

According to application, no laws are in effect governing the use of the standard assessment instruments (page 40). Companies that publish devices control who has access to them (Application, page 40).

Staff Analysis

Testing materials used by counselors are not considered inherently dangerous (Application, page 37).

Final Committee Finding

The need for laws governing assessment devices does not appear to be appropriate for this occupation.

(3) inadequate laws govern the standard of practice and their effective enforcement.

Information Provided By Applicant

No state or non-governmental certification processes are available in Kansas to govern standard of practice (Exhibit A).

Staff Analysis

No laws in the State of Kansas are in affect to govern standards of practice.

Final Committee Finding

Since there are no laws governing the standard of practice and their effective enforcement; the standard is met.

(4) inadequate standards such as a code of ethics for professional performance and their effective enforcement,

Information Provided By Applicant

The American Association for Counseling and Development has a Code of Ethics for counselors (Application, page 6). However, there is no mechanism to enforce this code upon counselors who are not members of a professional association/organization.

Staff Analysis

The Code of Ethics developed for counselors is not enforceable at this time in the State of Kansas.

Final Committee Finding

Standards such as a code of ethics for professional performance within the field of counseling are not enforceable; the standard is met.

(5) lack of employment in licensed or certified health facilities which are required to employ competent staff,

Information Provided By Applicant

The application explains that professional counselors are employed in a variety of settings, such as community mental health centers, public agencies etc. (page 7). However, this application is concerned with counselors in private practice.

Staff Analysis

Credentialing is being sought for private practice counselors.

Preliminary Committee Finding

Lack of employment of counselors in licensed or certified facilities does not apply to this application.

(6) inadequate federal licensing or credentialing mechanisms and their effective enforcement,

Information Provided By Applicant

The application states that there are not state or federal credentialing mechanisms for counselors. There are three major national certification processes a counselor may voluntarily seek: National Board for Certified Counselors, National Academy for Certified Clinical Mental Health Counselors, and Commission on Rehabilitation Counselors Certification (pages 20-21).

Staff Analysis

Only non-government voluntary certifications are available.

Final Committee Finding

No federal licensing mechanism exists; the standard is met.

(7) inadequate civil service procedures which effectively screen potential employees for competence,

Information Provided by Applicant

No information provided.

Staff Analysis

Civil service procedures do not apply to private practice counselors.

Final Committee Finding

Adequate civil service procedures for screening competence do not apply in this situation.

(8) lack of graduation of members of applicant groups from accredited educational institutions or training programs, or

Information Provided By Applicant

Approximately 178 individuals in Kansas meet the terms specified by the applicant to be a professional counselor (Application, page 5). Professional counselors are defined as individuals who have completed a minimum of 60 graduate credit hours including a graduate degree in counseling, etc... All of the six educational institutions in Kansas are accredited and offer master's level programs in counseling.

Staff Analysis

Counselors have the opportunty to receive their education through accredited universities in Kansas. However, it can be assumed that not all practitioners have advanced educational backgrounds from accredited schools. There is currently no mechanism to assure that counselors receive education from accredited schools.

Final Committee Finding

There are no mechanisms enforcing counselors to receive education from accredited institutions; the standard is met.

(9) inadequate participation in on-the-job training programs which are required by law or by professional organizations of the occupation.

Information Provided By Applicant

The application notes that a supervised practical experience is stressed in a typical master's level program in Kansas (page 12).

Non-governmental certifying organizations such as the National Academy of Certified Clinical Mental Health Counselors requires of their members a minimum of two years supervised experience (Application, pages 20-21).

Information Provided By Interested Person

James P. McHugh, Ph.D. stated that practical courses in psychotherapy vary at the six education institutions in Kansas. Some of the courses require actual patient contact while other courses do not.

Staff Analysis

On-the-job training for counselors is not required by law. Field work with client contact is required by some of the schools. The national professional organizations often require on-the-job training; however, membership in these organizations is voluntary.

Final Committee Finding

Professional counselors are not required by law to participate in on-the-job training; the standard is met.

B. Indicators of protection by means other than credentialing shall be assessed and evaluated at least in view of the extent to which they:

(1) address all practitioners within the occupation,

(2) appear sufficient to protect the general public from harm caused by the practice of the occupation, and

(3) appear to be permanent and ongoing mechanisms.

Staff Analysis

The information presented above for criterion 3 indicates:

1) There are no permanent and ongoing legal mechanisms such as a certification process available in Kansas to govern standards of practice of professional counselors (Criterion 3 (3));

2) National and state affiliated organizations that enforce a standard of practice and a code of ethics do not address all practitioners within the occupation (Criterion 3(4));

3) There are no state or federal credentialing mechanisms available in Kansas, so anyone can practice the occupation regardless of training (Criterion 3(6));

4) There are practitioners who are graduates of accredited educational institutions; however, there is no legal mechanism that requires a practitioner to have a degree of any kind from an accredited institution (Criterion 3(8)); and

5) Private practice counselors are not required to receive on-the-job-training (Criterion 3(9)).

Final Committee Finding

Indicators of protection other than credentialing do not appear to address all practitioners within the occupation or to be sufficient to protect the general public from harm.

IV. The Need for Credentialing and the Level of Credentialing

The committee makes the finding that criterions 1, 2, and 3 have been met. The committee makes the decision that the need for credentialing of professional counselors exists in Kansas. The committee recommends that licensure be the appropriate level of credentialing.

See Attachment I for other recommendations of the committee.

Other recommendations of the committee are:

Issue: Regulatory Board
(1) The Behavioral Sciences Regulatory Board is recommended as the appropriate regulatory body.

Issue: Education/Training
(1) The committee stresses that there is a need for educational institutions to establish a standardized 60 hour master's degree program in mental health counseling that properly trains the professional counselor to provide services as a private practitioner. Specifically, a formal supervised practicum placement for students should be required as well as appropriate training for assessment and treatment of a client's condition.

Issue: Exceptions to Legislation

During the review process, a representative of the Marriage and Family Therapist Association and the Kansas Alcoholism and Drug Abuse Counselors' Association requested an exemption from legislation of professional counselors.

(1) The committee stresses that if the credentialing of professional counselors is to be affective in protecting the public, few if any exceptions should be granted by the legislature.

Issue: State Reciprocity
(1) The committee recommends that the statute and regulatory board's rules and regulations should allow for professional counselors licensed in other states to have reciprocity with Kansas licensure laws if equivalent standards exist in these other states.

HP/9

CRITERIA AND STANDARDS FOR DETERMINING
THE NEED FOR CREDENTIALING

Summary - Findings of Technical Advisory Committee
regarding Professional Counsellors

Criteria 1 - The unregulated practice of the occupation or profession can harm or endanger the health, safety, or welfare of the public and the potential for such harm is recognizable and not remote or dependent upon tenuous argument.

Standards for Criterion 1

A. The potential for harm to the public's health, safety, and welfare may be present in the form of:

1. the inherently dangerous nature of the occupation's functions;

Not met

2. the inherently dangerous nature of devices or substances used in performing the occupation's functions; or

Not met

3. the frequent exercise by a practitioner of an observable degree of independent judgment when identifying or evaluating consumer's problems, planning or coordinating their care, or directly delivering their care.

Met

B. Such potential for harm may be documented by 1) expert testimony; 2) client or consumer testimony; 3) research findings; or 4) legal precedents, financial awards, or judicial rulings.

Met

C. Such potential for harm may be remote when 1) instances of impairment are infrequent or rare; 2) impairment is minor in nature; or 3) impairment is due to secondary or teritiary effects of the practice of the occupation.

Met

D. Reduction of the potential for harm through regulation shall, when possible, be documented by comparing 1) instances of harm occurring when the practice of the occupation is unregulated; and 2) instances of harm occurring when the practice of the occupation is regulated.

Not met

SPH&W
2-6-87
attachment 3

Criteria 2 - The practice of the occupation of profession requires specialized skill and training, and the public needs and will benefit by assurances of initial and continuing occupational or professional ability.

Standards for Criterion 2

A. A need for specialized skill and training shall be demonstrated by:

1. use in the occupation of an identifiable scope of knowledge or procedures acquirable only through a formal period of study and/or training appropriate for such scope of practice; and

Not currently met

2. increased frequency of actual instances of harm to consumers when such study or training is absent or inadequate for the practice of the occupation.

Not met

B. The public needs and will benefit by assurances of ability when:

1. there is objective and subjective evidence that consumers benefit from the practice of the occupation;

Met

2. consumers are unable through ordinary and reasonable means to judge the competence of a practitioner or to assess whether the outcome is beneficial or harmful;

Met

3. changes in or maintenance of the occupation's skills, knowledge, or techniques required the practitioner to undergo continuing study or training in order to meet current standards; and

Met

4. mechanisms exist to assure consumers of initial and, if necessary, continuine ability in the practice of the occupation.

Met

Criteria 3 - The public is not effectively protected drom harm by means other than credentialing.

Standards for Criterion 3

A. Insufficient protection of the public from harm and assurance of ability by means other than credentialing shall be demonstrated through:

1. inadequate supervision by practitioners or a regulated occupation;

   Not applicable

2. inadequate laws governing devices and sunstances used in the occupation and their effective enforcement;

   Not appropriate

3. inadequate laws governing the standard of practice and their effective enforcement;

   Met

4. inadequate standards such as the code of ethics for professional performance and their effective enforcement;

   Met

5. lack of employment in licensed or certified health facilities which are required to employ competent staff;

   Met

6. inadequate federal licensing or credentialing mechanisms and their effective enforcement;

   Not applicable

7. inadequate civil service procedures which effectively screen potential employees for competence;

   Met

8. lack of graduation of members of applicant groups from an accredited educational institution or training program; or

   Met

9. inadequate participation in on-the-job training programs which are required by law or by professional organizations of the occupation.

   Met

Summary of findings prepared by John Peterson,
Kansas Association of Professional Psychologists

WWP091150-2/4dk

Kansas Association of Professional Psychologists

I am Dr. Randee Jae Shenkel. I am a clinical psychologist in private practice and Past President of the Kansas Association of Professional Psychologists. Thank you for the opportunity to address you today about our concerns about the bill before you. Section 1(c) of Senate Bill 78 states, "'Counseling' means to assist an individual or group to develop understanding of personal strengths and weaknesses, to restructure concepts and feelings, to define goals and to plan actions as these are related to personal, social, emotional, mental and career development and adjustment.". I read that and my fantasy was that "emotional" and "mental" were sandwiched in the middle in the hopes that no one would notice them. Section 4(3) states that each applicant shall have completed 60 graduate semester hours including a graduate degree which includes study in each of the following areas: counseling theory and practice; the helping relationship; group dynamics, processing, and counseling; human growth and development; lifestyle and career development; appraisal of individuals; social and cultural foundations; research and evaluation; professional orientation; supervised practicum and internship. Please note that there is not a single course devoted to the study of psychopathology, abnormal personality theory, emotional disorders, mental illness of any sort. Further, these are the suggested requirements for the proposed "licensed Professional Counselor", the group which is to supervise the "licensed Associate Counselor".

In the original 1984 proposal, the applicant group stated, "These occupations (which included psychology) are different in that they more often focus on the remediation of mental illness and dysfunction rather than on the promotion of mental health, growth and development.". In that same proposal, "...however, psychologists are more often trained to diagnose and treat mental illness and dysfunction while Professional Counselors are more often trained in the promotion of mental health and wellness.".

Assuming there have been no revolutionary changes since the original application, I think it is safe to assume that the applicant group is still not trained to diagnose nor to treat (i.e. psychotherapy) mental illness. As a psychologist, I may recognize that my patient has developed recurrent headaches. I will then refer that patient to a physician for diagnosis and treatment. If a counselor recognizes an emotional disorder, he or she must refer the client to the appropriate professional as well. It would be essential to do so

S P&HW
2-6-87
attachment 4

in order to be consistent with their code of ethics which state that, "The certified counselor neither claims nor implies professional qualifications exceeding those possessed and is responsible for correcting any misrepresentations of these qualifications by others.". A statement with which I couldn't agree more.

If the qualifications of the applicant group are studied in detail, it is apparent that counselors are trained to advise mentally healthy individuals, most clearly in areas of educational and career goals. Interestingly, the final report of the Statewide Health Coordinating Council technical committee (SHCC) seemed to recognize that counseling is a field that applies to non-emotionally disturbed individuals. The aim of "counseling", as the applicant group stated repeatedly, is prevention of problems, personal growth - essentially working with psychologically normal individuals who want improved functioning in a specific area of their life. The SHCC committee in response to Criterion 1 stated, "The functions performed by professional counselors are not in and of themselves inherently dangerous; the devices used in the practice of professional counselors are not in and of themselves inherently dangerous.". Criterion 1 states that "The unregulated practice of the occupation or profession can harm or endanger the health, safety or welfare of the public and (the operative word here is and not or) and the potential for such harm is recognizable and not remote or (sic) dependent upon tenuous agreement.". I was thus very confused for, if potential for harm was not found, I am not sure why the committee went further to study documentation of harm. Nevertheless, the committee reviewed the documentation and concluded that "The potential for harm is recognizable.".

I realize that for the public it can become very confusing sorting out psychiatry, psychology - who does what with whom and how. Of course, it is precisely because of that that what is decided on applications such as the one before us is so very important. A very frustrating example of this was that in Secretary Sabol's final report she stated, "One example of sexual exploitation included a psychologist, etc.". In other words, the applicant group's proof of dangerous was not counseling. The applicant group did present some fine arguments for licensing psychologists though. I think that the process that occurred was that all concerned - including possibly the applicant group themselves - recognized that if counselors do what they are trained to do and with whom they are trained to do it, the public is not endangered. So the applicant group presented "proof" which was largely irrelevant to their profession. I found myself thinking, "This is analogous to psychologists saying,

'We're going to prescribe medication even though we are not competent to do so, so you should license us.'". The application was prepared largely by doctoral level counselors who I'm sure do have a background in research methodology. The general public hears, "Sanka is 99% caffeine free.". The behavioral scientist hears, "Sanka is 99% caffeine free." but thinks, "I'll bet regular coffee is 97% caffeine free.". In other words, the way in which the data is presented certainly effects its interpretation. I suspect that the applicant group took some advantage of that plus banked on the fact that the committee would not recognize the differences among the various professional groups cited in the data. I hope that the confusion is not further encouraged among the general population by licensing counselors to perform services for which they have not been trained. Thank you for your time.

TESTIMONY TO SENATE
PUBLIC HEALTH & WELFARE COMMITTEE

February 3, 1987

By: Judy Shorman, MA, OTR, CIRS

INTRACORP
6701 W. 64th St., #220
Shawnee Mission, KS 66202
913-722-2085

Contents:

SP&W
2-6-87
attachment 5

I. Judy Shorman, MA, OTR, CIRS

I am a District Manager for Intracorp, supervising all of our services in a five state area (MO, KS, NE, IA, AR). I hold an M.A. in Health Care Management and am an Occupational Therapist. I am also a Certified Insurance Rehabilitation Specialist. I am a native Kansan and have been working in my field in Kansas for seven years.

II. Intracorp

Intracorp is an international disability management corporation. We were founded in 1970 as International Rehabilitation Associates, Inc. and currently employ approximately 3,500 professionals. We provide many services to employers and third party insurance payors - focusing on health care cost containment and vocational rehabilitation management.

Intracorp is known as the founder of the industry of "private rehabilitation" or "insurance rehabilitation". Our goal is to provide a case management service for our customers. We receive referrals from employers or 3rd party payors who ask us to interview an injured or ill person, their family, their physician(s), and often their employer. After we have gathered information from all parties we assimilate it in a report to the payor. We then make recommendations for assisting the injured/ill person to achieve maximum medical and vocational rehabilitation cost effectively.

Intracorp employs 20 professionals in Kansas whose job titles are "Rehabilitation Specialist" or "Nurse Coordinator". These people are registered nurses, registered occupational therapists, masters of social work, or master's level vocational or rehabilitation counselors. They are all certified, licensed or registered with their fields. We are not providing counseling services outside of our individual fields of expertise. If we have patients who need counseling, we refer them to psychologists, masters of social work, or psychiatrists.

III. Private (or Insurance) Rehabilitation

This industry has grown dramatically since its inception 17 years ago. I am aware of 6 companies in Kansas who provide case management services but in some states there are hundreds of such companies. People who practice private rehabilitation are licensed or registered within their profession. In addition, we have the National Association of Rehabilitation Professionals in the Private Sector. This organization was founded 5 years ago and is rapidly growing.

Professionals who practice private rehabilitation are often credentialed by the National Board of Rehabilitation Certification. The two national examinations and criteria which must be passed result in either becoming a Certified Rehabilitation Counselor (C.R.C.) or a Certified Insurance Rehabilitation Specialist (C.I.R.S.).

For more information, see attached Standards & Ethics, and KS Insurance regarding article.

IV. Concerns Regarding SB 78

1. The definition of "counseling" is too broad. The case management services we provide do not require the standards set forth by this bill and yet "counseling" as defined in the bill would apply to what we do.

2. Private Rehabilitation Coordinators are not excluded from the bill under Section #13, line 245.

3. To my knowledge there have not been malpractice suits or claims against anyone practicing in private rehabilitation in Kansas. Licensure does not appear necessary to protect the citizens of Kansas.

4. If a patient doesn't want to have Intracorp's assistance when it's offered by the payor, they may refuse. If the payor is not satisfied with our service, we are removed from the case. These are automatic mechanisms to ensure quality service - licensure is not necessary.

5. If private rehabilitation professionals are to be included in this bill, then the areas of study in section 4 are not adequate. For instance, no training in medical care coordination or insurance coverages is required.

6. Section 13,b. is not clear. The implication is that public counselors would not need to be licensed. Why would they be excluded?

7. If this bill includes private rehabilitation, I am concerned as an employer that I will have to terminate 15 (of 20 employees) rehabilitation coordinators and I will not be able to locate applicants "qualified" by this bill, in Kansas.

V. Proposed Alternatives to SB 78

1. Exclude private rehabilitation coordinators from this bill.

2. Amend the bill to more clearly define "counseling".

3. If private rehabilitation is meant to be included in SB 78, then re-write the required credentials (Section 4).

National Association of Rehabilitation Professionals in the Private Sector
Standards and Ethics

Preamble
NARPPS members recognize the uniqueness of the private rehabilitation field. The conduct of members of a professional organization must be ethical at all times. NARPPS recognizes the free enterprise system and believes that fair competition encourages the development of quality services to both the client and referral source.

Professional Conduct by Discipline
The member is obligated to maintain technical competency at such a level that the recipient receives the highest quality of services that the member's discipline is capable of offering. The implementation of a rehabilitation plan for a client is a multidisciplinary effort. NARPPS members will conduct themselves in interdisicplinary relationship in such a way as to facilitate the contribution of all specialists involved for maximum benefit of the recipient of services and to bring credit to each discipline.

Minimal Standards for Service Delivery
Standards shall apply to those persons who are providing the services.

The services and submission of reports shall be provided in a timely fashion and shall respond to the purpose of the referral and include recommendations, if appropriate. All reports shall reflect an objective, independent opinion based on factual determinations within the provider's area of expertise and discipline. The reports of services and findings shall be distributed to appropriate parties and in compliance with all applicable legal regulations.

The member shall render only those services that the member is competent and qualified to perform.

The member has an obligation to withdraw from a professional relationship if it is believed that the participation will result in violation of the ethical standards of his/her professional discipline.

There shall be a stated rationale for the provision of services to be rendered to the client in the form of an identified objective or purpose.

The member shall refuse to participate in practices which are inconsistent with the standards established by regulatory bodies regarding the delivery of services to clients.

Members will adhere to all tenets of confidentiality.

At the time of initial referral, the member has the responsibility for identifying to the referral source and to the client what services are to be provided and practices to be conducted. This shall include the identification, as well as the clarification, of services that are available by that member.

Professional Education, Training and Experience
NARPPS supports the principle of accreditation of member rehabilitation companies on a voluntary basis.

NARPPS considers the following standards to be the minimum requirements for a Rehabilitation Practitioner.

A. Professional Rehabilitation Practitioner

1. Holder of a Masters or Doctorate degree in health-support services from an accredited institution, plus one year of experience in vocational rehabilitation or physical rehabilitation. At least one year shall have been spent in the rehabilitation of disabling conditions and/or diseases; or
2. Holder of a Baccalaureate degree in health-support services from an accredited institution, plus two years of experience in vocational rehabilitation or physical rehabilitation. At least one year shall have been spent in the rehabilitation of disabling conditions and/or diseases; or
3. Diploma in Nursing from an accredited institution plus a current R.N. license, plus three years of experience in physical rehabilitation or vocational rehabilitation. At least one year shall have been spent in the rehabilitation of disabling conditions and/or diseases; or
4. Holder of any Baccalaureate degree other than listed in No. 2above from an institution, accredited plus three years of experience in vocational rehabilitation. At least two years shall have been spent in the rehabilitation of disabling conditions and/or diseases.

B. Associate Rehabilitation Practitioner
Holder of an Associate degree or high school diploma, plus continuing education and five years experience in vocational rehabilitation, including counseling, evaluation and direct case services. Three of the five years shall have been spent in the rehabilitation of disabling conditions and/or diseases.

C. Rehabilitation Intern
An individual who meets the minimum education requirements but does not meet the experiential requirements must be supervised by a professional rehabilitation practitioner. The intern shall provide the name of the professional rehabilitation practitioner under whose direct supervision he/she will work. The supervisor will function as the primary case manager.

Advocacy
Advocacy is a term used when referring to the act of pleading the cause or coming to the aid of another. NARPPS members respect the integrity and interest of the people and groups with whom they work. With regard to disabled persons, advocacy takes into account such issues as the legal rights of handicapped people to achieve integration into the social, cultural and economic life of the general community. The role of the NARPPS member as an advocate is to protect and promote the welfare of disabled persons to maximize control over circumstances that intertere with their obtaining vocational independence When there is a conflict of interest between the disabled client and the NARPPS member's employing party, the member must clarify the nature and direction of his/her loyalty and responsibilities and keep all parties informed of that commitment. NARPPS supports legislation that provides for services and care for the disabled.

Testimony
NARPPS recognizes that a rehabilitation practitioner has a responsibility, when requested, to provide objective testimony.

Rehabilitation Practitioners provide services within the legal system and, in addition to providing primary care rehabilitation services, are called upon to testify as to facts of which they have knowledge or to render a professional opinion on rehabilitation questions or disability factors affecting an individual.

The testimony of a rehabilitation practitioner should be limited to the specific fields of expertise of that individual as demonstrated by training, education and experience. The extent of the practitioner's training, education and experience needed to testify is determined by the legal jurisdiction in which the practitioner is testifying.

It is also permissible for a rehabilitation practitioner to render an expert opinion and answer questions about a disabled or handicapped individual that has been evaluated either in person or hypothetically.

Confidentiality
The purpose of confidentiality is to safeguard information that is obtained in the course of practice. Disclosures of information are restricted to what is necessary, relevant and verifiable with respect to the client's right to privacy. When a third party is involved, the key to confidentiality, when considering personal or confidential information, is to make certain that the client is aware, from the outset, that the delivery of service is being observed by the third party. Professional files, reports and records shall be maintained under conditions of security and provision will be made for their destruction when appropriate.

Business Practices
Individuals and/or organizations in private sector rehabilitation should adhere to all applicable standards and practices common to the general business community. In addition, they should give special attention to and adhere to the following specific points:

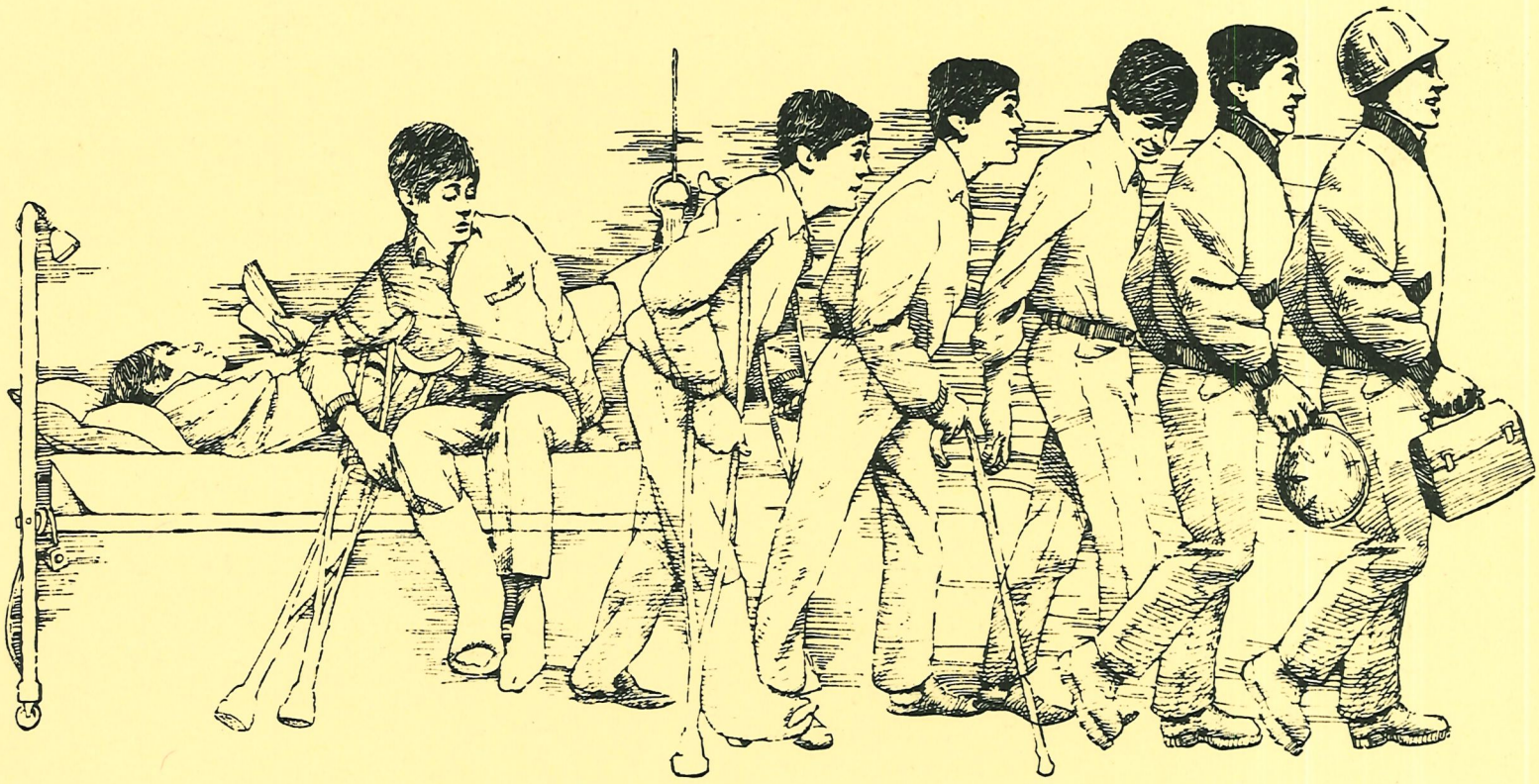
1. Members will adhere to all applicable federal, state and local laws establishing and regulating business practices.
2. Members will not misrepresent themselves, their duties or credentials.
3. Members should carry professional liability insurance for the protection of themselves and affected third parties.
4. Rehabilitation Practitioners shall not engage in claims practices as such are defined under the statutes and legal precedents in their respective jurisdictions.
5. It is to be encouraged that any discussion and comments or criticism directed toward a fellow Rehabilitation Practitioner or organization shall be positive and/or constructive.
6. Competitive advertising should be factually accurate and shall avoid exaggerated claims as to costs and results.
7. When asked to comment on cases being actively managed by another Rehabilitation Practitioner and/or organization, the reviewer shall make every reasonable effort to conduct an in-person evaluation before rendering his conclusion.
8. A Rehabilitation Practitioner member will not promise or offer services or results he cannot deliver or has reason to believe he cannot provide.
9. A member is not to solicit referrals either directly or indirectly by offering money or gifts other than de minimis gifts to a referral source.
10. When recruiting an employee, members should not falsely promise benefits, employment advancement or salaries which they know or have reason to know that they cannot meet.
11. No Rehabilitation Practitioner or organization shall effectuate or participate in the wrongful removal of professional rehabilitation files or other materials upon the initiation of new employment.
12. Rehabilitation Practitioners shall not enter into fee arrangements that would be likely to create conflicts of interest or influence their testimony in claims cases. Rehabilitation Practitioners shall advise the referral source/payor of its fee structure in advance of the rendering of any services and shall also furnish, upon request, detailed accurate time records.
13. Member referral sources working for member organizations or individuals shall pay invoices in accordance with normal payment practices.

Standards Compliance Review Board
The function of the Standards Compliance Review Board will be to investigate and rule on alleged infraction of the approved standards and ethics of NARPPS members. The Standards Compliance Review Board will consist of the following:

a. Rehabilitation Counselor
b. Rehabilitation Nurse
c. Vocational Evaluator
d. Placement Specialist
e. Insurance Claimsperson or buyer
f. Private Practitioner (general)
g. Company Administrator

Adopted November 1981.

Kansas Insurance



Rehabilitation Specialists — Coordinating the Recovery

By Judy Shorman
Manager, Kansas City Office
International Rehabilitation Associates and Medex Service

Ms. Shorman is a graduate of Kansas University with a Bachelor of Science in Occupational Therapy. Rehabilitation employment (or) experience has been at Rancho Los Amigos; Downey, CA; Rehabilitation Institute; Kansas City, MO; and International Rehabilitation Associates, Shawnee Mission, KS. Ms. Shorman is currently the manager of the Kansas City office of International Rehabilitation Associates and Medex Service.

Rehabilitation begins at the moment a person is injured, although it is generally considered to be the long term restorative aspects of recovery. Prior to a claimant's achieving medical stability and returning to work, he may receive rehabilitative assistance from a variety of sources. These include medical and vocational professionals, in-patient or outpatient facilities, equipment suppliers, home health vendors, consumer advocacy groups, and government programs.

Ideally, these organizations function as a team to ensure that the injured person receives the best service at the right time. In reality, the potential exists for the injured person to be shuffled from facility to facility, specialist to family physician, etc., often with minimal communication between the professionals, the claimant, and the insuror. The insurance adjustor is the only party continuously involved with the claimant, and is probably in the best position to observe the quality of care and identify problem situations.

When the adjustor does recognize the "red flag" signals of developing problems, he may encounter barriers to controlling them. Only if the adjustor has sufficient rapport with the client to suggest alternative treatment or question the effectiveness of current treatment, can he be a facilitator of the kinds of actions that promote recovery.

The adjustor may, however, elect to refer the claimant to a rehabilitation specialist who is trained to provide comprehensive and objective intervention. The rehabilitation specialist is perceived by the claimant as an advocate, who is working towards the claimant's best interests. This alone may be a significant motivating factor that can lead to claim resolution. This article will outline rehabilitation services currently offered by private companies here in Kansas.

The results of rehabilitation are a more rapid recovery, successful return to productive employment and better readjustment to any permanent disability.

Overview

As early as the 1940's, the insurance industry had become aware of the value of rehabilitating claimants when possible. Some companies developed in-house rehabilitation staffs, composed primarily of registered nurses, to coordinate medical treatment and vocational counseling.

In 1966, a group of insurance executives formed the Insurance Rehabilitation Study Group (IRSG) to look into the potential that rehabilitation might have for the industry. In 1970, International Rehabilitation Associates (IRA) was formed as the first private for-profit provider of insurance rehabiitation services.

Today, IRA remains the largest and most experienced provider of services in a rapidly growing industry, and has assisted over 135,000 disabled individuals with return to work or the most productive lifestyle possible. Thirteen years after the founding of IRA, insurance rehabilitation is still a relatively young industry and its benefits may be somewhat unfamiliar to the public at large.

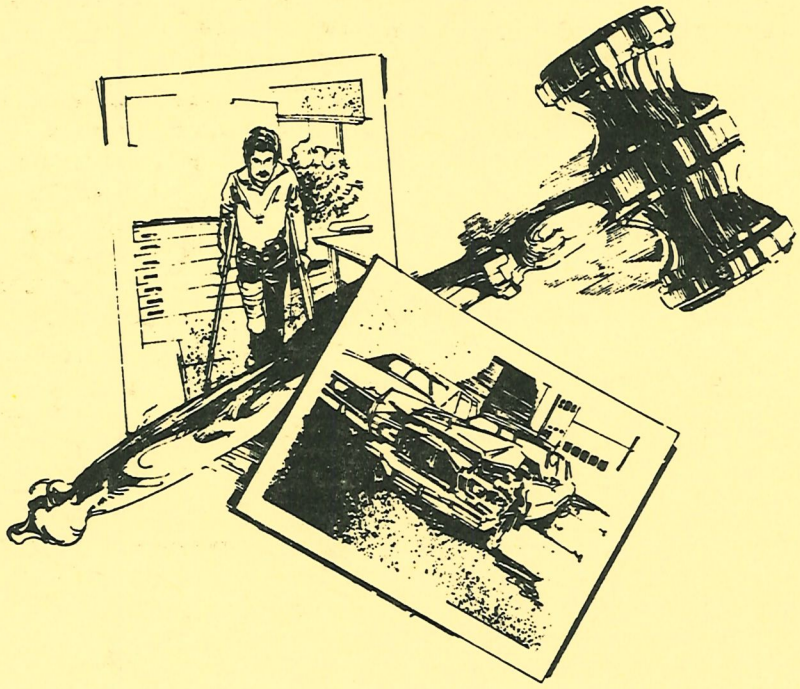
Referrals to rehabilitation services are made by insurance companies, self-insured employers, plaintiff and defense attorneys, and physicians. These referrals are usually from certain lines of business, including workers' compensation, long term disability, auto no-fault, liability, and accident and health.

Disabled individuals are referred to rehabilitation services for a combination of medical and vocational assessments, which are followed by recom-

mendations of action steps that will lead to claim resolution through return to work or maximum medical improvement.

Insurance rehabilitation companies do not provide hands-on treatment, but rather obtain and coordinate all that is needed to bring the claim to the quickest possible and most effective closure. Action recommendations are based on information obtained from all parties involved with the case, and evaluations strive to be both objective and comprehensive.

The results of rehabilitation are a more rapid recovery, successful return to productive employment, and better readjustment to any permanent disability. Also, the employer will regain a valued employee and the insuror is able to handle the case in the most cost effective manner possible.



The Rehabilitation Process

The rehabilitation assessment begins with referral to a rehabilitation specialist, who is usually a registered nurse or master's level vocational counselor. The specialist should be informed if the client is represented by counsel, as the specialist must have counsel's permission to enter the case.

The specialist will then begin the initial evaluation, which starts with a personal visit to the claimant, either at home or in the hospital. Through an interview, the specialist will assess the claimant's understanding of the injury or illness, current treatment, and return to work plans. The specialist may also visit with the claimant's spouse and family to assess family dynamics and the impact of the disability on their relationships and lifestyles. The specialist may offer some small amount of counseling at this point that will convey a sense of much needed support to the claimant and family.

The specialist will then visit the claimant's employer, to complete an on-site job analysis, assess options for return to work, and establish a date for such. The job analysis is a precise description of **everything** involved in the job. It helps to determine the claimant's ability to return to the same job, as well as to identify transferrable skills which could apply to other jobs. Often it will uncover that a minor modification will facilitate return to work, or that the job is not as physically strenuous as the job title implies. In either case, the claimant may be able to return to work much sooner than anticipated.

Another source of information on the claimant's situation is the claimant's physician. The specialist will share with the doctor his/her impression of the claimant's current status, obtain the current diagnosis and treatment modality, and request a prognosis, return to work date, and indication of any functional limitations that could impact on return to work.

The specialist will also share the job analysis with the doctor, and this will assist with an accurate prediction of functional limitations. Physicians welcome the rehabilitation specialist's input and role in the case.

The specialist will then complete the initial evaluation report, and make specific recommendations that will facilitate return to maximum function and employment. The specialist will then carry out these recommendations in a goal directed manner.

To better illustrate the benefits of the rehabilitation process, following are several examples of actual case resolution:

An assessment of a disabled individual's medical status may be requested when an insuror is faced with providing on-going treatment:

A twenty one year old man received a shoulder injury during a motorcycle accident resulting in surgical intervention. Over a year later he still had complaints of isolated weakness, which prevented return to work as a railroad brakeman. The rehabilitation specialist completed a detailed interview with the client and discussed the client's status with the physician who had been treating him. She then referred the client to a reconstructive surgeon whose diagnosis was a brachial plexus stretch injury and microsurgery followed.

RESULT: On follow-up one year later, the client reported near normal strength and return to work.

Recommendations by a rehabilitation specialist can result in return to work for an employee who otherwise could not return to the same job:

A grocery checker who suffered a back injury had recovered from her surgery, but supposedly could not return to work due to excessive standing. The rehabilitation specialist met with the employer and physician to determine that industrial matting and a stool could be placed in the

client's work area, which would allow alternation of sitting and standing, so less stress would be on the client's back. Also, the client could return to work on a gradually increasing schedule and was referred for instruction in correct body mechanics and posture.

RESULT: The employee was able to return to work in her same job successfully.

Vocational management can be completed to achieve a disabled person's return to work as soon as he/she has attained medical stability:

The rehabilitation evaluation showed that a sales clerk who suffered a knees injury would not be able to return to that position due to lifting and walking requirements. While the client was completing long term physical therapy and home exercises the rehabilitation specialist completed vocational evaluation and testing, to identify transferrable skills. As soon as the client could travel to interviews the rehabilitation specialist supervised her job search.

RESULT: The employee was placed into a part-time position, which eventually became full-time return to work.

The rehabilitation specialist may advise or assist in arranging an appropriate medical examination to evaluate a specific complaint:

A disabled truck driver reported frequent episodes of dizziness and loss of consciousness while driving, so could not return to work driving. The rehabilitation specialist arranged evalutaion by a neurologist, which showed no objective findings. She then proceeded to schedule an extensive driving program, with an instructor, and neurological monitoring for the client, both to assess the client's function and to reassure him of his abilities.

RESULT: The client suggested he return to work in a different position with the same company.

These examples of efficient recovery and return to work also result in substantially lowered costs to the insuror. Over the years, IRA has shown a $10 return on investment for every dollar invested in rehabilitation services. These results are documented from IRA's data base of over 110,000 closed rehabilitation cases. Results analyses have shown one of the most critical factors in rehabilitation success's a claimant should be referred as soon as possible after injury or onset of illness.

As mentioned at the beginning of this article, rehabilitation begins at the **moment** of inury. This is when the claimant's fears and expectations begin to form and the rehabilitation specialist can be most effective in channeling these expectations in a productive direction. This is also when treatment commences and plans for the future are established. If rehabilitation services are a significant part of this critical period, the probability for success is dramatically improved.

The above description of the rehabilitation process is an example of how a typical case might be handled. But no case is really "typical." Rehabilitation services are not a "packaged" product, but are as varied as insurance coverages and disabilities are.

To be successful, the rehabilitation effort must be tailored to the needs of the claimant, the adjustor, and the coverage. You as the claim manager professional have the best vantage point and opportunity to influence the outcome of this process. Goal directed rehabilitation can benefit both claimants and society, by returning the disabled to productivity and by reducing the costs of claims in which we all ultimately share. ●

February 4, 1987

Senator Roy Ehrlich, Chairman
Senate Public Health and Welfare Committee
State Capitol Building, Third Floor
Topeka, Kansas 66612

Dear Senator Ehrlich:

Since I am unable to come to Topeka to testify before the Public Health and Welfare Committee, I am sending the attached testimony urging the Committee's support of Senate Bill 78 - Kansas Professional Counselor Licensure.

I request that you pass this written testimony out to each Committee member so they may read it for these hearings.

I would appreciate your conscientious consideration of this testimony and the positive impact the licensure bill could have on the lives of Kansans.

Sincerely,

Naomi Isenbart-Strong

Naomi Isenbart-Strong
Wichita, Kansas

Attachment

SP&HW
2-6-87
attachment 6

Senate Public Health and Welfare Committee
Senate Bill: 78 - Kansas Professional Counselor Licensure

I am writing this testimony to appeal for your support of the Kansas Professional Counselor Licensure bill. Enactment of this bill is crucial for a number of reasons. The Kansas Professional Counselor Licensure would:

1. Establish counseling as a profession,
2. Establish a code of ethics for counselors,
3. Provide through the licensure process an independent, impartial, and objective system by which counselors and the public can have the benefit of review by a governing body,
4. Offer consumers of the State of Kansas a mechanism of professional accountability and assurance of continued high quality of professional services,
5. Provide an organized body to set standards of competency to monitor levels of professional performance and to strengthen performance, if needed,
6. Establish a governing body to provide consumer protection and an avenue for the public to turn to when accountability issues need to be addressed.

I am alarmed that special interest groups have their own concerns placed above their regard for the public. In their opposition to this bill, there is real danger that the welfare of the public is forgotten.

After working in the rehabilitation profession for several years, I have observed instances where licensing could have prevented harmful exploitation of the public by requiring individuals who practice in the counseling profession to meet certain standards of performance. I have observed the financial, physical and emotional exploitation of disabled adult clients. The "counselors" in these situations did not have professional training in the area of counseling. The cost of this type of exploitation is difficult to measure in monetary terms. Unless the licensure bill is passed, this abuse will continue to exist.

Naomi Isenbart-Strong, M.S.
Adult/Community Counseling

LEAGUE OF WOMEN VOTERS OF KANSAS

Suite 112D
3601 S.W. 29th Street
Topeka, Kansas 66614
February 3, 1987

The Hon. Roy M. Ehrlich, Chairman
Senate Public Health and Welfare Committee
State Capitol
Topeka, Kansas 66612

Dear Senator Ehrlich:

The League of Women Voters of Kansas opposes passage of Senate Bill 86, requiring reports concerning the termination of pregnancy.

This proposal appears to be less a public welfare measure than an instrument of social policy brought forth by opponents of abortion. It is designed to identify physicians who perform abortions and will also have the effect of harassing women who choose to terminate their pregnancies. Patients who have other types of medical or surgical procedures are not required to file reports with the state even though they may be likely to have complications.

In our opinion, passage of Senate Bill 86 would provide no benefit to the public health and welfare, and we urge the committee not to recommend it.

Yours truly,

Linda R. Johnson

Linda R. Johnson
President

SP&W
2-6-87
attachment 7

KPMA
Kansas Podiatric Medical Association

615 S. Topeka Ave. • Topeka, Kansas 66603 • (913) 354-7611

February 4, 1987

TO: Chairman Roy Ehrlich and Members of
the Senate Public Health and Welfare Committee

FROM: Wayne Probasco, Executive Secretary,
Kansas Podiatric Medical Association

IN RE: Senate Bill No. 35

With regard to the Podiatric Sections of the above-captioned bill, the Kansas Podiatric Medical Association supports the passage of this bill.

Basically, this is a conformative bill whereby the practice of Podiatry conforms with the other licensing groups of the State Board of Healing Arts, the major areas being licensing and disciplinary procedures. These areas will now correspond with the other groups under the State Board of Healing Arts.

Respectfully submitted.

SPH&W
2-6-87
attachment 8

February 5, 1987

Mr. Roy Ehrlich, Chairman
Senate Public Health & Welfare Committee

RE: Senate Bill 78
Kansas Professional Counselor Licensure

Dear Mr. Ehrlich:

I am unable to appear because of prior commitments with my job, but would like for my testimony to be read in support of Senate Bill 78.

I feel this is a very valuable bill for the protection of Kansans who are in need of counseling services. With the budget cuts and current economic situations which have led to increases in homeless, unemployment, and family crises, the public needs to be assured of the competency of those who serve them. I believe this bill addresses the competency issue by its educational requirements both in numbers of required hours and the variety of fields from which those hours must come. Professionals who meet those requirements must be identified, not simply thrown in a group labeled "counselors" which, at the present time, could include virtually anyone.

As a Vocational Rehabilitation Counselor, I not only support the bill to identify myself as a professional, but also to identify others that are competent to provide the necessary services for my clients. I do not see Senate Bill 78 as creating more competition for the present service providers, but more services for the public in need, and more opportunities for them to gain necessary benefits. The group that will be hurt by this bill are those who misrepresent their skills and abilities and take advantage of the lack of such a bill.

I thank you for your time and am asking for your support of this seriously needed bill.

Sincerely,

Becky Gish

Becky Gish
Rehabilitation Counselor
Wichita, Kansas

BG:jg

SP&HaW
2-6-87
attachment 9

Bill Moore
5310 E. Funston
Wichita, KS 67218

February 5, 1987

Ray Ehrlich, Chairman
Senate Public Health and Welfare Committee
Sentate Bill 78 - Kansas Professional Counselor Licensure

Dear Mr. Chairman:

My name is Bill J. Moore and I am a Certified Rehabilitation Counselor. I have been employed as a counselor by the Kansas Division of Vocational Rehabilitation Services for the past 18 years. I have served as president of the Wichita Rehabilitation Association and as a board member of the Kansas Rehabilitation Association. In my employment in Rehabilitation Services, I counsel with individuals who are handicapped by physical, emotional and mental disabilities.

The individuals I work with are desperatley in need of help and dependent on others for that help. Their desperation and dependency often puts them in a compromising situation and vulnerable to exploitation, sometimes by unethical and incompetent counselors. In my work, I have seen clients who have been exploited and abused by incompetent and unethical counselors and others in the helping professions. Therefore, I am in support of S.B. 78 which, if enacted, would establish a licensing body for counselors in the State of Kansas. It is my position that the public is entitled to the protection that licensing would afford. Only by counselors having to meet standards of competency and ethics for licensing, can the citizens of Kansas, receive this protection. Therefore, I enlist your support and that of your committee in making licensing a reality in Kansas for counselors.

Thank you for your consideration.

Sincerely,

Bill Moore

Bill Moore
Vocational Rehabilitation Counselor

BM:pn

SP&W
2-6-87
attachment 10

February 5, 1987

Senator Roy Ehrlich, Chairman
Senate Public Health & Welfare Committee
Senate Bill 78
Kansas Professional Counselor Licensure

Dear Mr. Chairman:

Since I am unable to attend the hearings on SB78, I am pleased to submit a testimonial in support of the licensure of counselors.

During nearly seven years in rehabilitation work and another four in college counseling, I have seen the title "counselor" used loosely and frequently from those with only a high school degree to those with a Bachelor's Degree and special interest in one field to those of us with a Master's Degree in Counseling. Anyone wishing to call him or herself counselor has but to do so and immediately there are those individuals in need who seek that person out for professional counseling services.

Professionalism demands accountability but at this time there is no way to protect the public from those who are not qualified but who attempt to provide services anyway to the unknowing but hurt individual.

A desire to help people is a wonderful goal. However, such a desire alone does not qualify a person to counsel. Knowledge, skills, and experience are essential to providing the type of services our citizens need when they seek counseling from individuals who are truly counselors in more than name only.

Thank you for listening. I ask for your support in passage of SB78-Kansas Professional Counselor Licensure.

Sincerely,

Jan Britton

Jan Britton
Rehabilitation Counselor
Wichita, Kansas

JB:jg

S P&H&W
2-6-87
attachment 11

Association of Community
Mental Health Centers of Kansas
835 S.W. Topeka Ave., Suite B/Topeka, Kansas 66612/913 234-4773
Paul M. Klotz, Executive Director

February 4, 1987

The Honorable Roy Erlich
Chairman, Senate Public Health and Welfare Committee
State Capitol Building
Topeka, KS 66612

RE: SB 78

Dear Senator Erlich:

The Association of Community Mental Health Centers of Kansas has reviewed SB 78 and wishes to recommend an amendment to the committee.

Testimony on the part of proponents repeatedly stated that licensed counselors would be independently providing "mental health services." Their definition of "counseling" includes terminology that, in practice, could be licensing them to diagnose and treat mental disorders. However, the content of their formal training found in lines 0086-0096 does not include the academic preparation necessary to diagnose and/or treat mental disorders.

The Association of Community Mental Health Centers of Kansas strongly believes that those who provide human services should be regulated in the interest of public protection. We are equally strong in our belief that legal regulation must give assurance that those being given legal status are not encouraged to independently provide services without adequate training.

To further assure protection of the public, we would recommend that the definition of counseling be amended by adding at the end of line 38, the following:

<u>However, counseling does not include the diagnosis and/or treatment of mental disorders.</u>

I respectively request you share this written testimony with the members of your committee. I appreciate your consideration.

Sincerely,

Charles Kunce, Ph.D.
Chairman, Professional Standards Committee

CK:DR:ch

SPH&W 2-6-87
Attachment 12