Approved Thomas F. Walker
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION.

The meeting was called to order by Representative Thomas F. Walker at
Chairperson

9:00 a.m. on Tuesday, January 19, 1988 in room 522-S of the Capitol.

All members were present except:

Representative Sebelius - Excused
Representative Peterson

Committee staff present:
Avis Swartzman - Revisor
Carolyn Rampey - Legislative Research Department
Mary Galligan - Legislative Research Department
Emalene Correll - Legislative Research Department
Jackie Breymeyer - Committee Secretary
Conferees appearing before the committee:

Dr. Lois Rich Scibetta - Kansas State Board of Nursing

Chairman Walker called the meeting to order.

The minutes of the previous meeting were approved.

Carolyn Rampey, Legislative Research Department, gave a staff review of the report approved last session dealing with the Sunset Review of the Board of Nursing. The Board has been continued until July 1, 1995. (Attachment 1)

The Chairman introduced Dr. Lois Rich Scibetta, Executive Administrator, Kansas State Board of Nursing. Dr. Scibetta was present to update the committee on the issue of the Impaired Nurse and Peer Assistance. (Attachment 2) Dr. Scibetta introduced Dr. Elaine Harvey, Chairman of the Ad Hoc Committee that dealt with the Impaired Nurse issue. Others that Dr. Scibetta introduced were representatives from the nursing community and included: Joan Peavler, Berniece Smith, Nancy Davis and Terri Rossolet Roberts. Dr. Scibetta said the committee went through exploration and discussion of the issue, laid the ground work and strategy by which the committee would work and went on to its funding and recommendations. Dr. Scibetta also had charts which showed the results of a survey which the Board of Nursing had included in one of its newsletters. (Attachment 3)

Numerous questions were directed to Dr. Scibetta and her colleagues.

Chairman Walker said he would contact Dr. Scibetta at a later date when she has had time to get her data pulled together so she can give the committee additional input.

The meeting was adjourned.

GUEST LIST

COMMITTEE: GOVERNMENTAL ORGANIZATION DATE: JANUARY 19, 1988

NAME	ADDRESS	COMPANY/ORGANIZATION
Elaine B Hersey	1612 Chelsea	EMPC
Sandy Dain	Silver Lake Topeka	SMPC
Jo Ann Pearler LPN	3228 E 6th Topeka Ks	St Board of Nursing
Terri Roberts	820 Quincy suite 520	KSNA
Margaret (Peggy) Shore	Rt 2 Box 154 Belle Plaine	KFLPN.
Bernice Smith	1016 Ash	KFLPN
Janet Jacobs	3031 So Custer Wichita	KFLPN
David Salisbury	Dodge City	KNEA
Sheri Youngdon	Hutchinson	KNEA

March 31, 1987

MEMORANDUM

March 26, 1987

TO: House Governmental Organization Committee

FROM: Kansas Legislative Research Department

RE: Sunset Review of the Board of Nursing

The Board of Nursing is scheduled to be abolished July 1, 1987, under provisions of the Kansas Sunset Law unless continued by the Legislature. Following its review of the Board, the Committee makes the following recommendations and comments:

1. S.B. 88, which continues the Board until July 1, 1995, should be reported favorably.

2. The Board of Nursing should report to the House Committee on Governmental Organization during the 1988 Session concerning its plans and recommendations for a program for impaired nurses. The report should identify legislation and funding necessary to implement any proposed plan.

   The Committee notes that during the 1987 Session several private societies and associations representing health care providers have approached the Legislature for either funding from regulatory agency fee funds or statutory authorization for regulatory boards to contract with private associations for impaired provider programs. (For example, the Kansas Medical Society, the Kansas Association of Osteopathic Medicine, and the Kansas Chiropractic Association all hope to receive funding from the Kansas Board of Healing Arts for impaired provider programs.)

   Programs for impaired nurses that have been brought to the Committee's attention include a program developed by the Kansas State Nurses Association and a possible interest in developing a program for licensed practical nurses by the Kansas Association of Licensed Practical Nurses.

   The Committee is sympathetic toward the idea of peer assistance programs for nurses, but has several reservations that prevent if from wholeheartedly endorsing the proposals that have been presented to it at the present time. The reservations include the following:

   a. The present program operated by the Kansas State Nurses Association may not be adequate to handle the number of nurses who may be in need of assistance. (There are presently 40 nurses in the program; 84 nurses have participated in the program since it began

ATTACHMENT 1
G.O. COMMITTEE

in September, 1983.) It is possible that, if larger numbers of nurses need help, the Board would want to work with other associations or facilities (such as hospitals) that could provide programs. This is one of the specific questions the Committee wants the Board to address in its report to the Committee in 1988.

b. The only specific program proposed for nurses is a program developed by an association that represents only 1,700 of the 31,439 people presently regulated by the Board of Nursing. The Committee is concerned that a program developed by an association that represents only a little more than 5 percent of the Board's licensees may not orient the program toward the larger group it purports to serve.

c. The Committee acknowledges the interest of the Kansas Association of Licensed Practical Nurses in developing its own program for impaired licensed practical nurses and wishes to give it the opportunity to work with the Board.

d. The Committee notes the lack of agreement that presently exists among the Board, the Kansas State Nurses Association, and licensed practical nurses concerning the role the Board should play in peer assistance programs and who should provide the programs. In requesting that the Board report to the 1988 Legislature, the Committee hopes to give the Board and the various groups and associations involved time to reach a mutual agreement that can be presented to the Committee for its evaluation. It is the Committee's expectation that the Board will work with the various interested parties in preparing its 1988 report and recommendations.

3. The Legislature should consider enacting a mandatory reporting law for nurses. The 1982 sunset audit report of the Board of Nursing recommended a reporting law and the House Governmental Organization Committee introduced legislation to implement the recommendation. The bill that pertained to licensed mental health technicians was enacted by the 1983 Legislature, but a similar bill also recommended at that time that applied to nurses was killed. The bill would have required anyone who employs a nurse or any doctor, licensed social worker, or person regulated by the Board of Nursing to report to the Board whenever they thought a nurse was guilty of malpractice or had committed an unlawful act (as specified in statutes). The Committee's opinion is that employers of nurses and other health care providers should be required to notify the Board when suspected acts of malpractice or illegal action take place so

that the Board can fulfill its mission to protect the public. (To facilitate Committee discussion on this point, the Chairman has asked the staff to draft proposed legislation for the Committee's consideration.)

MemoHGO.CR/jsf

Kansas State Board of Nursing

Landon State Office Building
900 S.W. Jackson, Rm. 551
Topeka, Kansas 66612-1256
913-296-4929

Lois Rich Scibetta, Ph.D., R.N.
Executive Administrator

Bonnie Howard, R.N., M.A.
Practice Specialist

Janette Pucci, R.N., M.S.N.
Educational Specialist

TO: Representative Tom Walker, Chairman
and Members of the Governmental
Organization Committee

FROM: Dr. Lois Rich Scibetta, Executive Administrator

DATE: January 13, 1988

RE: Follow Up --Senate Bill 88, The Impaired Nurse

As per the direction of the Governmental Organization Committee, the Kansas State Board of Nursing has explored in depth the issue of the Impaired Nurse and Peer Assistance.

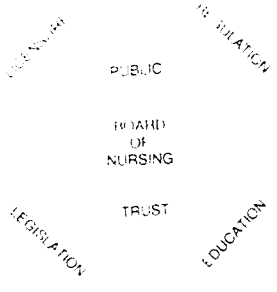
The Board began their exploration in March and April, 1987, and the first official meeting was held on April 23, 1987. Many issues were discussed including the role of the Board and how the financing of the monitoring of Peer Assistance would be managed.

There were on-going discussions with our attorney regarding questions raised by the Board, legal issues, and an informal legal opinion was prepared by Mr. Garlow on June 2, 1987. The opinion related to contractual arrangements and discussed the type of legal arrangements which were possible and within the scope of the Board's responsibility. (Attachment #1, important areas highlighted.)

In the late summer, the Executive Administrator appeared before the Interim Committee and gave a "progress" report on where the Board was at that time, including some areas of concern.

Once the ground work had been accomplished, the Board set up an Ad Hoc Committee consisting of members of the nursing community, specialists in addiction, and representatives of the Kansas Nurses Association.

The first strategy meeting was held on October 29, 1987, and definite plans for the care of impaired nurses were discussed. An all-day meeting was planned for November 19, 1987.



Atch 2

In November, three tasks forces were appointed by Dr. Harvey, Chairman of the Committee. One task force was to consider the Budget; one was to deal with Reporting and Investigation; and the third, the Contractual Agreement between the Board and the Kansas State Nurses Association. The Task Force then reported to the total group.

The recommendations of the task forces were then shared with the Kansas State Board of Nursing (KSBN) and the Kansas State Nurses Association (KSNA) Boards. Both Boards accepted the recommendations in principle, although they are by no means complete.

RECOMMENDATIONS:

1. Budget -- It was determined that in order to accomplish the purpose intended, that it would be necessary to add Board of Nursing staff and staff at the KSNA. Total: $101,800.00

Board of Nursing:	1 FTE Investigator	$ 22,200	
	½ FTE Investigator	11,100	
	½ FTE Secretary	7,150	
			$40,450
Nursing Association:	1 FTE Professional	33,000	
	½ FTE Secretary	7,150	
	Travel	5,000	
	RLT Training and support	10,000	
	Postage/Supplies	1,200	
	Phone calls	2,000	
			61,350
	TOTAL:		$101,800

In terms of funding the budget, it was determined that the 20 percent of Board funds allocated to the state might be one source of income; another source was only as a last resort--a licensure surcharge should be instituted. The 20 percent of fee income was suggested as a consumer protection charge.

2. The task force on Reporting made the following suggestions:

That the practice act be changed to include mandatory reporting. Section 65-1120 (4) could be changed to read:

> habitually intemperate or addicted to the use of habit-forming drugs and not currently in recovery or in an approved program leading to rehabilitation.

(This would make the wording consistent with the wording in the model legislation.)

We agreed we need a diversion procedure in the legislation, including fees to fund it.

Immunity from civil suits should be included. (This is included in the model legislation.)

We believe the current procedure for the initial reporting of a nurse or LMHT to the Board should be left as it is. We recommend the possibilities be explored regarding the Director of Risk Management of the Department of Health and Environment reporting to the Board any nurse or LMHT known to them through their reporting mechanisms and also reports of nurses or LMHT convicted of DWI or other alcohol or drug related problems.

Along with the mandatory reporting (not limited to nurses or LMHT, but to include their employers) requirement, there should also be a penalty for those that do not report.

All investigations should be carried out by trained, experienced investigators. The process would be as follows:

- complaint is received at the Board of Nursing
- investigation
- information goes to the Investigative Committee to determine if the case should be referred for a hearing or for diversion
- diversion as in model or current hearing process

We recommend that all nurses and LMHTs accepted for diversion be required to stipulate to the facts.

3. The task force on the Agreement recommended an outline for an agreement and suggested that the Statement on Model Diversion Legislation for Chemically Impaired Nurses (National Society for Addictions) be modified for use in Kansas. (Attachment #2)

In summary, the Ad Hoc Committee made several suggestions, including a prepared budget. The diverse group felt that it was the responsibility of the profession to monitor its own group. The precendent has been established in the Board of Healing Arts and the Kansas Medical Society in terms of funding, etc.

Currently, the fee fund could not absorb a budget of $101,000.00 as an ongoing item. Other financial resources will have to be explored.

The Board of Nursing has not seen the Interim Proposal regarding Proposal #29; however, the Board will be in session next week, and I will be happy to provide feedback to the Committee once they have reviewed the proposal.

Thank you for the opportunity to comment.

bjl

Attachments 2

Attachment #1

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION 296-3751

June 2, 1987

Dr. Lois Scibetta, R.N., Ph.D.
Kansas State Board of Nursing
Landon Office Building, Suite 551S
Topeka, Kansas 66612

Re: Request for Advice on Peer Assistance and Senate Bill 88

Dear Lois:

This letter is a follow up to the oral advice I provided to the board at its May meeting. The advice was requested by your letter dated April 23, 1987. The Ad Hoc Committee reviewing S.B. 88 had several questions and/or concerns. I will respond to each paragraph by using the same number.

1) If the legislature believes you should engage in diversion programs or contract with nongovernmental agencies to accomplish impaired provider rehabilitation goals, then the legislature can certainly pass a law to that effect. Then of course, it would basically be "legal."

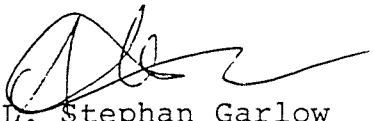
2) The decision whether to have a formalized contractual arrangement with the Peer Assistance Provider Program, is a question which needs to be studied by the board. You will want to seek input from interested parties, and review current programs used in Kansas, both by nurses and other medical disciplines, and the programs used in other states. The board may decide to establish the specific content of the program by statute, rules and regulations, or by contract.

3) Although there is nothing currently in the statutes regarding diversion, it appears to me that the purpose of the S.B. 88 and Governmental Organization Committee comments is to encourage the Board of Nursing to study this problem and develop statutes and regulations which would fit the overall program goals, and then fill in the details on how to accomplish those goals.

4) & 5) It is premature to answer these questions until the details of the programs are developed. If a new law or impaired provider program is established, then it certainly will have to take into account the provisions of the administrative procedure act. However, what I envision is that a person who wants to take advantage of a diversion program will have to waive their right to an administrative hearing. This is the way it is handled under the DUI criminal law statutes when a person wants to avoid criminal prosecution for driving under the influence of alcohol or drugs. That person enters into an agreement, which is filed with the court, and provides that the right to a speedy trial is waived. That person then has to comply with the diversion agreement. If the diversion agreement is breached then the person may be taken before a court for a trial. I would imagine you could consider the same sort of arrangement for an impaired provider program. That is just one suggestion. Other states or medical disciplines may have developed a better way to handle these arrangements, and may have developed a better way to avoid formal hearings.

Very truly yours,

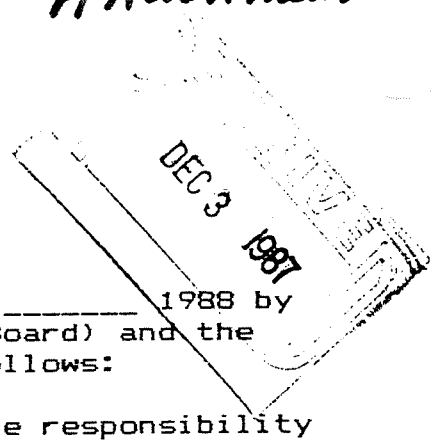
OFFICE OF THE ATTORNEY GENERAL
ROBERT T. STEPHAN



L. Stephan Garlow
Assistant Attorney General
Consumer Protection Division

LSG:ej

Attachment #2



AGREEMENT

THIS AGREEMENT executed this _____ day of _____ 1988 by and between The Kansas State Board of Nursing (Board) and the Kansas State Nurses' Association (KSNA) is as follows:

WHEREAS, the Board is vested by law with the responsibility for licensing and disciplining all persons under the jurisdiction of the Board; and

WHEREAS, KSNA is a nonprofit corporation which has created the Peer Assistance Program (PAP), the function of which program is to establish and to operate an interventional, referral and monitoring program for licensees who may be impaired;

NOW THEREFORE, it is agreed to pursue the enactment of the attached Model Diversion Program into the Nurse Practice Act and to enter into an agreement wherein KSNA is designated as the approved Peer Assistance Program provider outlined in that document. It is further agreed to enter into a collaborative effort to provide education to all persons licensed by the Board as well as employers, colleagues and families of said licensees.

ATEMENT ON MODEL DIVERSION LEGISLATION FOR CHEMICALLY IMPAIRED NURSES

Over recent years, state nurses associations, specialty nursing groups and others, have worked to develop positions, mechanisms and peer assistance programs to help impaired nurses. Their goal(s) have been to assist nurses, whose practice is either actually or potentially affected, to find appropriate treatment for their illness, thus assisting and protecting both nurse and patient.

The nurse suffering from the primary illness of alcohol and/or drug addiction has long been a concern, not just of the profession, but also state regulatory bodies. State nursing boards have as their primary function, the protection of the public. In fulfilling that responsibility, they have often been in the position of being required to discipline a nurse for an act of commission or omission resulting purely from what is acknowledged to be the nurse's illness. Few boards have been pleased with this requirement, but have not felt that alternatives were available to them.

The National Nurses Society on Addictions, after observing the legislative efforts of such states as Florida, California and Hawaii, the programs developed by other professions, and the handling of other violations requiring due process, believes that a model diversion program for nurses, to be adopted by each state, could be of great assistance to the Boards of Nursing, individual nurses, our profession and our patients.

The following is a model statement and diversion legislation that NNSA hopes will be helpful in dealing with this issue in a safe, effective and humane manner.

MODEL STATEMENT

The Kansas State Board of Nursing, in the matter of nurses whose functioning is impaired by alcoholism or drug addiction, recognizes:

1. that alcoholism and drug addiction are primary illnesses and should be treated as such.
2. that problems resulting from these illnesses can include personal, legal and health problems that may impair the ~~nurse's~~ licensee's personal health and ability to practice safely.
3. that ~~nurses~~ licensees who develop these illnesses can, with appropriate treatment, be helped to recover.
4. that programs of assistance that include treatment and monitoring, as an alternative to a disciplinary process, have been particularly effective in rehabilitating the professional and in protecting the public.
5. that ~~nurses~~ licensees who are willing to cooperate with a program of assistance to them and accept treatment for these illnesses should be allowed to avoid disciplinary action provided they cooperate fully with recommended treatment and comply with the requirements for monitoring of their continued well-being after formal treatment is completed.

Therefore, the Kansas State Board of Nursing supports the enactment of an amendment to the nurse practice act in this state calling for a diversion procedure for ~~nurses~~ licensees who have been (or are likely to be) charged with violating the nurse practice act, but who are willing to stipulate to certain facts and enter a program approved by the Board.

DIVERSION PROCEDURE

Section _____.

It is the intent of the Legislature that the Board of Nursing (hereafter referred to as the Board) seek ways and means to identify and rehabilitate ~~nurses~~ licensees whose competency may be impaired due to abuse of drugs or alcohol, so that such ~~nurses~~ licensees can be treated and can return to or continue the practice of nursing in a manner which will benefit the public. It is further the intent of the Legislature that the Board of Nursing, by implementing this legislation, will establish a diversion procedure as a voluntary alternative to traditional disciplinary actions and as an alternative to lengthy and costly investigations and administrative proceedings against such ~~nurses~~ licensees but also having adequate safeguards for the patient.

Section _____.

As used in this statute:

1. "Program" means a formal, structured regimen, sponsored by a recognized group, designed to and capable of assisting addicted ~~nurses~~ licensees and referring them for evaluation and treatment, including mutual help groups and monitoring them for a period of at least two years.
   a. "Peer Assistance Program" means a program administered by professional nurses for the purpose of assisting their colleagues in obtaining evaluation, treatment, monitoring and on-going support for the purpose of arresting their addiction.
   b. "Employee Assistance Program" means a program offered by an employer of nurses for the purpose of identifying and assisting them in obtaining evaluation, treatment, monitoring and on-going support for the purpose of arresting their addiction.
   c. "Approved Program" means either a Peer Assistance Program or an Employee Assistance Program that has been approved and accepted by the Board of Nursing as having the ability to meet the requirements of this act by referring nurses for evaluation and treatment and by providing on-going support and monitoring for those nurses.
2. "Treatment" refers to a formalized plan carried out by a chemical dependency professional in either an in-patient or out-patient setting, designed to provide primary care, leading to rehabilitation.
3. "Committee" refers to a Diversion Evaluation Committee appointed by the Board to carry out such duties as are herein described.

Section _____.

The Board shall appoint one or more Diversion Evaluation Committees.

1. The committee will be composed of five persons:
   a. two registered nurses and one licensed practical nurse, all licensed under this chapter. The Board will give consideration to recommendations of nursing organizations and shall give priority consideration to the appointment of nurses who have recovered from impairment or who specialize in addictions nursing.
   b. two members not necessarily licensed as nurses but who have experience or knowledge in the evaluation or management of persons impaired by chemical dependency.
2. Each appointment shall be at the pleasure of the Board for a term not to exceed four years. The Board, at its discretion, may stagger the terms of the initial members appointed. A member may be reappointed once.
3. The members of the Committee will serve without pay, but will be reimbursed for the expenses incurred in the discharge of their duties at a rate determined by the state for all state business.
4. The Committee shall elect a chairperson and a vice-chairperson.
5. The Committee will review the request of each ~~nurse~~ licensee for diversion, according to criteria established by the Board, and recommend to the Board either in favor or against diversion. In all cases where the Committee has recommended diversion the Board shall grant diversion, except that for good cause shown the Board may disregard the Committee's recommendation and deny diversion.
6. The Committee will review the regimen developed by a Program for each ~~nurse~~ licensee and will determine whether that ~~nurse~~ licensee may safely continue or resume the practice of nursing while on diversion.
7. The Committee will hear reports from the ~~nurses~~ licensees on diversion and from the Programs as to each ~~nurses~~ licensees progress and cooperation and will, in turn, report and refer to the Board all relevant information and requests for action according to guidelines established by the Board.

Section _____.

One or more programs may be designated and contracted with as approved programs by the Board to carry out this article. Such programs must meet the following requirements:

1. Peer Assistance Programs will be designated for approval by the Board after consideration of the recommendation of the Committee and providing:
   a. they are sponsored by or in conjunction with the state nurses' association.
   b. that staff and/or volunteers of the program are educated, experienced, and supervised, appropriate to the level of involvement in the program.
   c. they include within their program, referral to bona fide chemical dependency treatment centers, e.g., those accredited by the Joint Commission of the Accreditation of Hospitals or those licensed by the state as such.
   d. they refer to mutual help groups, e.g., Alcoholics Anonymous, Narcotics Anonymous.
   e. they monitor participants for a period of two years including the random examination of body fluids as appropriate.
   f. they agree to immediately report to the Committee, any ~~nurse~~ licensee that does not cooperate and comply with the requirements of the program.
   g. they agree to report to the Committee, regularly and when requested, the status of individual ~~nurses~~ licensees as to cooperation and progress, including the overall status of the Program.
2. Employee Assistance Programs will be designated Programs for approval by the Board after consideration of the recommendation of the Committee providing:
   a. they have staff that have had a minimum of two years experience in the addictions field and in a health care agency or are directly supervised by someone with such experience.
   b. they include within their program, referral to bona fide treatment centers, e.g., those accredited by the Joint Commission on the accreditation of Hospitals or licensed by the state as such.
   c. they refer to mutual help groups, e.g., Alcoholics Anonymous, Narcotics Anonymous.
   d. they monitor participants for a period of two years including the use of random drug screens.
   e. they agree to immediately report to the Committee any nurse that does not cooperate and comply with the requirements of the Program.
   f. they agree to report to the Committee, regularly and when re-

STATEMENT ON MODEL DIVERSION LEGISLATION FOR CHEMICALLY IMPAIRED NURSES

NNSA National Nurses Society on Addictions

quested, the status of individual ~~nurses~~ licensees as to cooperation and progress and the overall status of the Program.

If no suitable programs are available in the state, the Board may contract for the development of such a program, providing it has no direct control over the program.

Section _____.

The Board may increase the licensing fee for each nurse in the state, not to exceed $5, to cover the cost of implementation and maintenance of this article.

Section _____.

Any ~~nurse~~ licensee, appearing before the Board for a violation of the nurse practice act due to an apparent addiction to alcohol or other drugs will be advised of the opportunity for diversion. The ~~nurse~~ licensee will be advised of the procedure to be followed and to be eligible, such nurse must stipulate to certain facts, waive a speedy hearing or trial and become a participant in, and agree to cooperate with, an approved program. The Board may grant diversion to a ~~nurse~~ licensee after reviewing the ~~nurse's~~ licensee's application for diversion and the recommendation of the Committee. Subsequent failure to cooperate and comply shall be reported to the Board by the Committee and may result in termination of the diversion procedure.

Section _____.

The Board of Nursing will develop a written diversion agreement which sets forth the requirements which must be met by the ~~nurse~~ licensee and the conditions under which the diversion procedure may be successfully completed or terminated due to lack of cooperation or compliance. Time already spent in an approved program may be taken into consideration by the Board in determining the length of diversion.

Section _____.

Records of the approved programs and treatment as they pertain to the diversion procedure shall be kept confidential, with the exception of the reporting as to whether or not the ~~nurse~~ licensee is cooperating and complying, and are not subject to discovery or subpoena.

Section _____.

During the time the ~~nurse~~ licensee is on diversion he or she will be required to remain in an approved program. Participation in a satisfactory program in another state may be approved upon application and a showing of need. The diversionee may not practice in another state without the knowledge of the Board of that state of his/her participation in the diversion procedure.

Section _____.

After a period of five years, provided no additional occurences of alcohol or drug related violations or crimes have occured, the records of the diversion and charges will be purged upon request of the nurse.

Section _____.

Any person making reports to the Board or to the Committee regarding a ~~nurse~~ licensee suspected of practicing while impaired or reports of a ~~nurse's~~ licensee's progress or lack of progress in a Program shall be immune from civil action for defamation or other cause of action resulting from such reports, provided that such report is made in good faith and with some reasonable basis in fact.

Section _____.

The Board of Nursing, any Committee or member thereof appointed by the Board, any Program or its staff or volunteers, any Treatment agency or its staff or volunteers, or any ~~nurse~~ licensee, licensed to practice under the laws of this State that has supervisory responsibility over the practice of nursing by a diversionee, or an employer of such a diversionee, shall not be liable for any civil damages resulting from the diversionee's negligence in his/her practice, or the fact that such diversionee's license to practice was not revoked, or that such diversionee was employed or retained in employment except for such damages which may result from such person, Board or group's negligence or wanton acts or omissions in the supervision of the impaired nurse.

CAUTION

Mandatory reporting is not included in this model. This is a difficult issue and is felt to be, in general, counter-productive. Should it be in force in certain states or considered for inclusion with this proposed legislation, an exemption should be allowed for those ~~nurses~~ licensees working in treatment programs or programs of assistance.

We suggest that close attention be paid to the section on the funding of the act. It should be clear that the Board can use that money to pay for the cost of programs when needed.

Persons not familiar with the legislative process should be warned that the passage of the act is not the final action. The drafting of the rules and regulations and guidelines that implement the act are also important and will require the attention of interested persons. 2-85

National Nurses Society on Addictions
2506 Gross Point Road
Evanston, IL 60201
(312) 475-7300

Approved
March 31, 1987

MEMORANDUM

March 26, 1987

TO: House Governmental Organization Committee

FROM: Kansas Legislative Research Department

RE: Sunset Review of the Board of Nursing

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   The Committee is sympathetic toward the idea of peer assistance programs for nurses, but has several reservations that prevent if from wholeheartedly endorsing the proposals that have been presented to it at the present time. The reservations include the following:

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c. The Committee acknowledges the interest of the Kansas Association of Licensed Practical Nurses in developing its own program for impaired licensed practical nurses and wishes to give it the opportunity to work with the Board.

d. The Committee notes the lack of agreement that presently exists among the Board, the Kansas State Nurses Association, and licensed practical nurses concerning the role the Board should play in peer assistance programs and who should provide the programs. In requesting that the Board report to the 1988 Legislature, the Committee hopes to give the Board and the various groups and associations involved time to reach a mutual agreement that can be presented to the Committee for its evaluation. It is the Committee's expectation that the Board will work with the various interested parties in preparing its 1988 report and recommendations.

3. The Legislature should consider enacting a mandatory reporting law for nurses. The 1982 sunset audit report of the Board of Nursing recommended a reporting law and the House Governmental Organization Committee introduced legislation to implement the recommendation. The bill that pertained to licensed mental health technicians was enacted by the 1983 Legislature, but a similar bill also recommended at that time that applied to nurses was killed. The bill would have required anyone who employs a nurse or any doctor, licensed social worker, or person regulated by the Board of Nursing to report to the Board whenever they thought a nurse was guilty of malpractice or had committed an unlawful act (as specified in statutes). The Committee's opinion is that employers of nurses and other health care providers should be required to notify the Board when suspected acts of malpractice or illegal action take place so

that the Board can fulfill its mission to protect the public. (To facilitate Committee discussion on this point, the Chairman has asked the staff to draft proposed legislation for the Committee's consideration.)

MemoHGO.CR/jsf

Federal Money

RE: PROPOSAL NO. 29 – MANDATORY REPORTING AND PEER ASSISTANCE FOR HEALTH-RELATED PROFESSIONALS*

Proposal No. 29 directed the Special Committee on Public Health and Welfare to determine the necessity for and the feasibility of mandating and standardizing reporting requirements concerning health-related professionals; to review existing treatment programs for impaired health-related professionals, including peer assistance; and to consider whether the state should participate in providing financial support for any such program.

Background

During the 1986 Session of the Kansas Legislature, a comprehensive act developed during the previous interim by the Special Committee on Medical Malpractice was enacted. The new act, which now appears as K.S.A. 1987 Supp. 65-4921 through 65-4930, creates mandatory reporting of certain acts and incidents relating to the treatment of patients of specified health care providers, requires the establishment of risk management programs by medical care facilities, and authorizes certain health care provider agencies to enter into agreements with the impaired provider committee of an appropriate state or county professional society or organization to carry out agreed to responsibilities relating to impaired providers.

Applicability

The 1986 act applies only to persons or entities defined as health care providers in K.S.A. 40-3401, i.e., (1) persons licensed to practice medicine and surgery and persons licensed to practice chiropractic, including those holding a temporary permit and persons engaged in an approved postgraduate training program; (2) health maintenance organizations; (3) medical care facilities as defined in K.S.A. 65-425; (4) optometrists; (5) podiatrists; (6) pharmacists; (7) licensed

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* H.B. 2642 and H.B. 2643 accompany this report.

professional nurses authorized to practice as registered nurse anesthetists; (8) professional corporations of health care providers; (9) partnerships of persons who are health care providers; (10) Kansas not-for-profit corporations organized to render professional services by persons who are health care providers; (11) dentists who are certified to administer anesthetics in medical settings under K.S.A. 65-2899; (12) physical therapists; (13) psychiatric hospitals; and (14) mental health centers or clinics. The term currently does not apply to licensed nurses, dentists, dental hygienists, mental health technicians, physical therapist assistants, occupational therapists and occupational therapy assistants, respiratory therapists, and persons having an exempt license issued by the Board of Healing Arts. The latter groups are not included under the provisions of K.S.A. 1987 Supp. 65-4921 et seq., because they are not providers under the Health Care Provider Insurance Availability Act. There are alternative reporting requirements applicable to licensees of the healing arts and to mental health technicians.

Reporting

K.S.A. 1987 Supp. 65-4923 requires a health care provider (as defined above) and any medical care facility employee or agent who is directly involved in the delivery of health care to report any reportable incident involving another health care provider, agent, or employee if the provider having a duty to report has knowledge of the incident. A reportable incident is any act of a health care provider that (1) is or may be below the applicable standard of care and that has a reasonable probability of causing injury to a patient, or (2) may be grounds for disciplinary action by the appropriate health care provider regulatory agency.

A reportable incident is to be reported to the appropriate state or county professional society or organization if the incident did not occur in a medical care facility; to the chief of the medical staff, chief administrative officer, or risk manager for referral to the appropriate executive or professional practices peer review committee if the incident occurred in a medical care facility; and, if the reportable incident involves a medical care facility as the health care provider to be reported, to the chief of the medical staff, chief administrative officer, or the risk manager for referral to the appropriate executive committee established pursuant to the facility bylaws. In each case the

reviewing committee, whether of a professional society or organization or a medical care facility, has a duty to report to the appropriate state regulatory agency any finding that a health care provider acted below the applicable standard of care and the action had a reasonable probability of causing injury to a patient, or acted in a manner which may be grounds for disciplinary action by the appropriate regulatory agency in order that the latter may take appropriate disciplinary action.

If a reportable incident is reported directly to a state agency that regulates health care providers, the agency may investigate the report or refer it to a peer review or executive committee which could have made the investigation initially under the law. Each peer review and executive committee must submit a report summarizing the reports of incidents received at least once each three months to the appropriate regulatory agency, including whether an investigation was conducted and any action taken. If a state agency determines that local committees are not fulfilling their duties, it may require that all reportable incidents be reported directly to the agency.

No person or entity is subject to civil liability for failure to report or investigate as required by the 1986 act, except on the basis of clear and convincing evidence that a report was based on evidence known to be false. However, the license of such person or entity may be revoked, suspended, or limited, or the provider may be subject to public or private censure by the appropriate health care provider regulatory agency if a provider is found to have willfully and knowingly failed to make a report. Failure to report also constitutes a class C misdemeanor. A medical care facility or a professional society or organization is not liable for damages for alleged failure to investigate or act upon a report made pursuant to the act. No employer may discharge or otherwise discriminate against an employee for making a report required by law.

Risk Management

K.S.A. 1987 Supp. 65-4922 requires each medical care facility (general or special hospital, ambulatory surgical center, or recuperation center) to establish and maintain an internal risk management program, which must include measures set out in the statute. A risk management plan had to be submitted to the Department of Health and Environment at least 60 days before the time for renewal of the facility license in

1987, and failure to submit a plan resulted in denial of the license renewal. No medical care facility may be licensed in 1988 unless its risk management plan has been approved by the Department.

Impaired Providers

If a report to a state agency made pursuant to K.S.A. 1987 Supp. 65-4921 et seq., or any other report or complaint filed with the agency relates to a health care provider's inability to practice with reasonable skill and safety due to physical or mental disability, including loss of motor skill or abuse of drugs or alcohol, or deterioration through aging, the regulatory agency may refer the matter to an impaired provider committee of the appropriate state or county professional society or organization.

Pursuant to K.S.A. 65-4924, a state agency that regulates health care providers (as currently defined in K.S.A. 1987 Supp. 65-4921) is authorized to enter into an agreement with the impaired provider committee of an appropriate state or county professional society or organization to undertake responsibilities relating to impaired providers specified in the agreement. The state agency may, pursuant to any agreement, provide for payment to the state or county professional society or organization from state money appropriated to the agency for purposes of the agreement. K.S.A. 65-4929 sets out functions and responsibilities which may be covered by the agreement.

Under the statutory authority, a professional society or organization, if agreed to by the regulatory agency, may contract with treatment programs; receive and evaluate reports of suspected impairment; intervene in instances of verified impairment; refer impaired providers to treatment programs; monitor the treatment and rehabilitation of impaired providers; and provide post-treatment monitoring and support of rehabilitated providers. The organization must make periodic reports to the state agency; must periodically disclose and review information as considered appropriate by the agency, including immediate reporting of the name of an impaired provider who is believed to constitute an imminent danger to the public and any impaired provider who refuses to cooperate with an investigation or treatment or who exhibits professional incompetence. The statute also sets out authority which may be exercised by a regulatory agency that has entered into an agreement for services relating to impaired providers.

Confidentiality

K.S.A. 1987 Supp. 65-4925 makes certain reports and records of executive or review committees and professional societies or organizations confidential and privileged if such reports and records arise from K.S.A. 1987 Supp. 65-4923 or 65-4924.

Committee Activity

The Special Committee on Public Health and Welfare considered Proposal No. 29 on two separate occasions and held hearings on the subject matter of the proposal. Additionally, the Committee reviewed the applicable Kansas statutes in depth, reviewed the agreement entered into pursuant to K.S.A. 65-4921 and 1987 H.B. 2224 between the Board of Healing Arts and the Kansas Medical Society, heard reports on disciplinary actions by health care provider licensing agencies, reviewed written testimony supplied to the Committee, and reviewed the provisions of the federal Health Care Quality Improvement Act of 1986.

The Committee heard representatives of the Board of Healing Arts, the State Board of Optometry Examiners, the Kansas Optometric Association, the Kansas Hospital Association, the State Board of Nursing, the Kansas Medical Society, the Kansas Pharmacists Association, the Kansas Podiatric Medical Association, the Kansas State Nurses Association, the Kansas Chiropractic Association, the Kansas Dental Association, and the Kansas Association of Osteopathic Physicians. In general, conferees expressed support for peer intervention in the case of an impaired health care provider, noted the need for programs to be established and funded, and expressed concern about mandating reporting if a system of intervention is not in place. There was disagreement on the role of the state regulatory agency in the conduct of peer assistance programs. Under K.S.A. 1987 Supp. 65-4924, licensing agencies may refer impaired providers to appropriate professional committees for assistance. Some conferees suggested referral should be made prior to any formal disciplinary proceedings by the regulatory agency, others suggested a diversionary program commencing after a complaint or report is filed with the licensing agency.

Questions were raised by conferees about the procedure set out in K.S.A. 1987 Supp. 65-4923 under which reports are made directly to the appropriate state or county professional society or organization rather than to the state regulatory agency. In these instances, the regulatory agency will learn of the report only if the local component group finds, on investigation, that the reportable incident has a reasonable probability of causing injury to a patient or that the provider acted in a manner that may be grounds for disciplinary action under the appropriate health care provider regulatory act. Concerns were raised about the uniform quality of local review and whether peer review groups conduct their review on the basis of ethical and practice considerations rather than on the basis of legal issues arising from violations of the appropriate practice act. It was further noted that many reports will never reach the regulatory agency, thus making it impossible for the agency to maintain appropriate records indicating a pattern of reports or complaints against a specific provider. There may be a reduction in the number of formal investigations and actions filed against licensees by the regulatory agencies, since reports that previously reached the agency will no longer do so. It was emphasized that the Legislature and the public hold the regulatory agency responsible for the continued practice of incompetent or impaired providers rather than holding a professional society responsible.

Several conferees representing health care provider boards suggested they sought assistance from the Committee in clarifying issues before proceeding to enter into agreements as authorized by law.

Conclusions

The Committee concluded that a number of issues were not adequately addressed by the 1986 legislation that mandated reporting of certain acts or incidents involving the treatment of patients of certain health care providers, that mandated certain risk management programs by medical care facilities, that authorized the development of peer assistance procedures, and that authorized the financial support of certain activities carried out by private organizations from state funds.

Definition of Provider

Among the issues which the 1986 legislation failed to address is the extension of mandatory reporting of incidents involving the treatment of patients to providers who are not required to have insurance in compliance with the Health Care Stabilization Fund. For this reason there is no mandatory reporting for several of the ancillary health groups registered by the Board of Healing Arts, i.e., occupational therapists, respiratory therapists, and occupational therapy and physical therapy assistants. Licensed nurses and mental health technicians regulated by the Board of Nursing are not included within the definition of health care provider, except for those registered professional nurses who are authorized to practice as nurse anesthetists. Dentists and dental hygienists licensed by the Kansas Dental Board are omitted from the reporting requirements.

While the Committee understands that concern for the protection of the Health Care Stabilization Fund and the focus of the 1985 special committee on malpractice insurance availability and affordability led to the limited applicability of K.S.A. 1987 Supp. 65-4921 et seq., as introduced, the members believe that reporting of incidents of patient treatment that are below the applicable standard of care should be viewed in light of the welfare of the patients of providers who are licensed by the state to practice or whose professional titles are protected by state registration. For this reason, the Committee concludes that those health care providers now omitted from the definition should be brought under the authority of K.S.A. 1987 Supp. 65-4921 through 65-4930.

Reporting

Some members of the Committee have reservations about the desirability of allowing reports of incidents involving health care professional practice that is or may be below the standard of care and that has a reasonable probability of causing injury to a patient or that may be grounds for disciplinary action as set out in state statutes to be reported to and investigated by a peer review group set up by a professional society or organization without being reported to the agency created by the Legislature to regulate the practice of the profession. However, given the short time the reporting requirements have been in effect, the Committee concluded that no changes should

be recommended in K.S.A. 1987 Supp. 65-4923 at this time. The Committee further concludes that the Legislature should monitor the number and type of disciplinary actions taken by health care provider licensing agencies in comparison with previous years; should monitor the type and quality of investigations and actions taken by peer review committees operating through professional societies or organizations; and should solicit the experience and advice of the licensing agencies in evaluating the procedure created by K.S.A. 1987 Supp. 65-4923.

Medical Care Facilities

K.S.A. 1987 Supp. 65-28,121 requires medical care facilities, subject to the provisions of subsection (c) of K.S.A. 1987 Supp. 65-4923, to report to the Board of Healing Arts any information the facility may have that appears to show that a person licensed to practice the healing arts has committed an act which may be a grounds for disciplinary action. A medical care facility must also inform the Board whenever the practice privileges of a licensee in the healing arts are terminated, suspended, or restricted, or are voluntarily surrendered or limited for reasons relating to the licensee's professional competence. Any medical care facility which fails to report to the Board within 30 days of receipt of the information required to be reported is subject to a civil fine of up to $1,000 per day for each day following the 30-day reporting period. Currently the statute, while requiring the Board of Healing Arts to notify the Secretary of Health and Environment who licenses medical care facilities of any failure to report as required by law, authorizes the Board of Healing Arts to assess the civil fine. The Committee concluded that it is inappropriate for an agency that has no regulatory authority over a health care provider to be vested with authority to assess a civil fine against such provider. Accordingly, the Committee concluded that K.S.A. 1987 Supp. 65-28,121 should be amended to authorize the Secretary of Health and Environment to assess a fine against any medical care facility which fails to report when such failure is referred to the Secretary by the Board of Healing Arts. The Committee also notes the constitutionality of the statute has been challenged and was being litigated at the time of the Committee study.

Although a private psychiatric hospital is defined as a "health care provider," private psychiatric hospitals, Social and Rehabilitation institutions, and Department of Corrections institutions are not "medical

care facilities" and, therefore, no quarterly reports or risk management plans must be made or maintained by such facilities pursuant to K.S.A. 1987 Supp. 65-4921 et seq. Although not included under the definition of "medical care facility," by agreement between the Departments of Health and Environment and Social and Rehabilitation Services, hospitals operated by the later agency are being licensed as medical care facilities. The Secretary of Health and Environment has concluded that such licensure makes the Social and Rehabilitation hospitals subject to the requirements of K.S.A. 1987 Supp. 65-4921 et seq. The Committee concurs with this interpretation of the law. At the present, the Department of Corrections does not operate a hospital and thus is not subject to the requirements relating to reporting and risk management. The Committee concluded that private psychiatric hospitals licensed under K.S.A. 75-3307b should be subject to the reporting and risk management requirements of the 1986 laws.

Impaired Providers

While some of the Committee members believe that the authority which may be granted by a licensing agency to an impaired provider committee of a state or county professional association through entering into an agreement is overly broad, the majority note that only one such agreement is currently in effect and that it has been in effect for only a short period of time. Thus, a majority of the Committee concluded that no statutory amendments should be proposed at this time.

The Committee did agree that any agreement entered into between a health care provider regulatory board and an impaired provider committee of a private professional society or association should not authorize the use of state funds for the purpose of treatment of impaired providers. The cost of treatment should be the responsibility of the individual impaired provider.

Further, the Committee concluded that an impaired provider should be reported to the appropriate licensing agency prior to being diverted to a treatment program. The Committee acknowledges the arguments of those conferees who believe that voluntary referral for treatment may result in the identification of and intervention with individuals who would not otherwise come to the attention of the appropriate regulatory agency. However, the Committee concluded that the protection of the

public is an overriding state concern, and that such protection is better served by requiring in any agreement entered into between a state agency and an impaired provider committee that the impaired providers be referred to the appropriate board for referral to treatment programs. Under such agreement, the regulatory agency will have a record of the investigation and finding of the peer assistance committee which can be correlated with any additional reports or complaints the agency may have about the provider, the agency will have on record that diversion to treatment was ordered, and the regulatory agency will be in the position of taking prompt action against a regulated provider who fails to complete treatment or who constitutes an immediate threat to the public because of refusal to cooperate with a treatment program. The Committee notes that the current agreement between the Board of Healing Arts and the Kansas Medical Society authorizes the Society's peer assistance committee to refer impaired providers to treatment programs without Board approval or referral. No such agreement should be entered into in the future.

Additionally, the Committee concluded that no agreement should be entered into unless the agreement provides for reimbursement of the peer assistance committee on a per case basis, subject to an agreed to maximum expenditure of state funds. The Committee noted that some provider associations appeared to believe that the fee funds of the regulatory agency having jurisdiction over them are not, in reality, state funds and should, therefore, be available to their associations or societies with little or no state intervention. Such is not the case, and the regulatory agency has the responsibility for prudent and efficient use of such funds whether they represent fee funds or State General Fund appropriations.

Confidentiality of Reports

It was brought to the Committee's attention that the provisions of K.S.A. 1987 Supp. 65-4915(d) relating to the confidentiality of peer review reports conflict with the provisions of K.S.A. 65-2898a and K.S.A. 1987 Supp. 65-4925, both of which provide that reports made to the Board of Healing Arts are confidential unless submitted into evidence in a disciplinary proceeding. Under K.S.A. 1987 Supp. 65-4915, reports of peer review committees are confidential until the Board files a formal disciplinary proceeding against a licensee. The Committee concluded that the latter statute should be amended to provide that

peer review records remain confidential unless submitted into evidence by the Board of Healing Arts or other health care provider licensing or disciplinary board.

Recommendations

The Special Committee on Public Health and Welfare recommends that the reporting requirements mandated by K.S.A. 1987 Supp. 65-4921 be extended to include licensed professional nurses, licensed practical nurses, mental health technicians, dentists, dental hygienists, physical therapist assistants, occupational therapists and occupational therapy assistants, and respiratory therapists. The Committee believes that this should be accomplished by amendment to K.S.A. 1987 Supp. 65-4921 and 65-4915, rather than through amending each of the professional practice acts. H.B. 2643 carries out these recommendations.

The Committee further recommends that the definition of medical care facility as it appears in K.S.A. 1987 Supp. 65-4921 be extended to include private psychiatric facilities licensed by the Secretary of Social and Rehabilitation Services. This amendment will subject such facilities to the quarterly reporting and risk management provisions of K.S.A. 1987 Supp. 65-4921 et seq., and to the penalties for failure to comply therewith. This recommendation is implemented by H.B. 2643.

The Committee recommends that K.S.A. 1987 Supp. 65-4915 be amended to conform with the provisions of K.S.A. 65-2898a and K.S.A. 1987 Supp. 65-4925 and to provide that all records of peer review committees supplied to a regulatory agency shall remain privileged and not subject to discovery, subpoena, or other means of legal compulsion unless they are submitted into evidence in a disciplinary proceeding. H.B. 2643 implements this recommendation.

The recommendation of the Committee is that K.S.A. 1987 Supp. 65-28,121 be amended to authorize the Secretary of Health and Environment rather than the Board of Healing Arts to assess a fine against a medical care facility that fails to report as required by law. This recommendation is implemented in a separate bill, H.B. 2642.

Since authorized peer assistance programs for impaired health professionals authorized by K.S.A. 1987 Supp. 65-4921 have not yet been implemented, except in the case of the Board of Healing Arts, the Committee recommends no changes in the statute at this time. However, the Committee does recommend that the Legislature review the program being operated pursuant to an agreement between the Board of Healing Arts and the Kansas Medical Society at a later time when more data is available.

Further, the Committee recommends that any agreements entered into between health care provider boards now authorized to enter into peer assistance agreements or those that would be so authorized under the amendments proposed in H.B. 2643 follow Committee recommendations, i.e., that impaired providers be reported to the appropriate board for referral to treatment rather than authorizing referral by a peer assistance committee; that agreements provide only for per case reimbursement with state funds, up to an agreed to cap; and that no state funds be expended for treatment.

The Committee also recommends that the appropriate regulatory agency monitor the effectiveness of peer assistance programs with great care to insure that equality of implementation exists; that legal definitions of grounds for disciplinary actions are identified and reported; and that the public is adequately protected from impaired or incompetent providers.

The Committee recommends that H.B. 2642 and H.B. 2643 be enacted by the 1988 Legislature.

Respectfully submitted,

November 24, 1987

Sen. Roy Ehrlich, Chairperson
Special Committee on Public
Health and Welfare

Rep. Marvin Littlejohn,
Vice-Chairperson
Rep. Eugene P. Amos
Rep. Jessie Branson
Rep. Frank Buehler
Rep. Theo Cribbs
Rep. Kenneth Green
Rep. Elaine Hassler
Rep. Tim Shallenburger
Rep. Franklin E. Weimer

Sen. Norma Daniels
Sen. Audrey Langworthy
Sen. Bill Morris
Sen. Joseph Norvell
Sen. Joe Warren

In 1987, the Legislature conducted a Sunset Review of the Board of Nursing. The Board was continued. The Board of Nursing was directed by the Legislature to design a plan for monitoring Impaired Licensees and to make recommendations regarding the funding for the plan, for the next Legislative Session.

In order to complete this task, we need your help because we want your opinion as we move ahead with this project. Please complete the enclosed short survey (pull-out in the newsletter), stamp and return to the Board of Nursing office as soon as possible.

Your response will be tabulated and shared with the Board and with the Legislature.

Thank you.

You are (please check):

1. RN_____
2. LPN_____
3. LMHT_____
4. Other_____

Member (please check response):

1. KSNA_____
2. NFLPN_____
3. KAHST_____
4. None_____

1. Do you believe that programs for Impaired Licensees should be available?

   1. Yes_____ 2. No_____

2. Who do you believe should have the responsibility for the programs for Impaired Licensees?

   1. Kansas Board of Nursing_____
   2. Professional Associations_____
   3. Community Mental Health Groups_____
   4. Other (please specify)_____

3. Do you believe that programs for Impaired Board Licensees should be funded through the Board of Nursing fee fund?

   1. Yes_____ 2. No_____

4. If yes to Question No. 3, should the funding be:

   1. partial_____ 2. percentage_____ 3. total_____

5. If no to Question No. 3, what, if any, funding sources do you suggest?

   1. private_____ 2. individual_____ 3. grant_____ 4. other_____ (please specify)

6. If the Legislature determines that Board of Nursing fee funds should be made available for this purpose, which method of payment would you prefer?

   1. licensure fees (fee fund)_____
   2. surcharge of $1 or $2 on license_____
   3. separate fund_____
   4. other (please specify)_____

Thank you for taking time to fill out this survey. Please return by October 1, 1987.
PLEASE DO RESPOND — YOUR OPINION COUNTS!

Please fold this survey on the lines indicated on the back showing the return address, tape, affix stamp and mail.

ATTACHMENT 3
G.O. COMMITTEE 1/19/88