

Approved

1-21-88

Date

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Vice Chairman, Frank Buehler at  
Chairperson

1:30 p.m. on January 19, 1988 in room 423-S of the Capitol.

All members were present except:

Chairman Littlejohn, excused

Committee staff present:

Emalene Correll, Research  
Bill Wolff, Research  
Norman Furse, Revisor  
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Gary Hulett, Ph.D., Under Secretary of Department Health & Environment  
Dick Morrissey, Department of Health and Environment

Vice Chairman, Representative Buehler called meeting to order, making the announcement that Chairman Littlejohn was ill and hospitalized in St. Francis, Wichita, for a few days. We all wish him well and a speedy recovery.

Vice-Chair introduced the new Secretary of Health and Environment, Dr. Stanley Grant.

Business of meeting began with an overview of HB 2464, and briefing of the background and language of the bill by Research staff, Ms. Correll. She gave a comprehensive History of the application and formal requests for Credentialing of Dietitians.

There was a Huge book prepared by Proponents of HB 2464 was distributed to all members and staff for their review. (Book too voluminous to be an attachment to the minutes.)

Ms. Correll gave a rundown of various persons who were those first on the Technical Committee. Their first meeting was in 1985. She distributed to members the final report to Legislature on the Application for Credentialing of Dietitians from former Secretary of Health and Environment, Barbara Sabol. (See Attachment no. 1 for details).

Ms. Correll gave a run-down of steps that had been taken in the credentialing process, gave an over-view of requirements and restrictions that other states impose. Many states use registration of dietitians, (which is protection of title only). Kansas law on this bill has been patterned after laws set down by the State of Virginia.

Ms. Correll then gave a comprehensive over-view of HB 2464, section by section, noting language of definition of dietition is broad. At the concluding of the briefing, she noted committee members might wish to direct questions to definitions of dietetic practice and nutrition care services, exemption section, and the issue of whether licensing or registration is the appropriate level of credentialing.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S Statehouse, at 1:30 a.m./p.m. on January 19, 1988

Briefing on HB 2464 continued:

Gary Hulett, Ph.D., Under Secretary of Department of Health and Environment gave hand-outs to members, (see Attachment No.2-Testimony on HB 2464, Attachment No.3 a balloon copy of HB 2464). Dr. Hulett thanked committee for the opportunity to present the views of their Department. They are recommending licensure of Dietitians, and have other recommendations and changes in language of bill as indicated in Attachments.

Dr. Hulett explained changes and recommendations that Health and Environment had provided in HB 2464. These recommendations are numerous and are detailed in Attachment No.3.

Dr. Hulett and Dick Morrissey both answered questions from members, i.e., various definitions are interpreted differently; in lines 154-158 could Licensed Health Care Facilities be added to this list; what is the intent of Department of Health and Environment in regard to deleting the word nutritionists, from language of their recommendations; what happens to independent business persons who sell Shaklee, Amway, etc.; it was suggested those on list in lines 154-158 be given notice so they could indicate to this committee how such list of professions was determined.

Vice-Chairman thanked all for their cooperation. Committee will meet tomorrow and have proponents speak to HB 2464.

Meeting adjourned at 2:48 p.m.



Final Report to the Legislature  
on the  
Application for Credentialing  
of Dietitians

August 11, 1986

The Kansas Dietetic Association (KDA) submitted to the Kansas Department of Health and Environment an application to be reviewed through the credentialing process. KDA seeks licensure by the state of Kansas for Dietitians/Nutritionists. The functions of Dietitians are to: 1) assess food practices and nutritional status of individuals or groups; 2) develop, implement, and evaluate nutritional care plans for individuals or groups; 3) nutrition counseling and education; and 4) develop, administer, evaluate, or consult in regard to nutritional care standards.

The application has been reviewed according to the Kansas Credentialing Act (K.S.A. 65-5001 et. seq.) by a technical committee, the Statewide Health Coordinating Council (SHCC), and the Secretary of the Kansas Department of Health and Environment. The purpose of the review process is to provide the Legislature with a thorough analysis of the application and to make recommendations on whether there is a need for credentialing and if so, what level of credentialing is appropriate. Attached is a copy of the findings and recommendations of the technical committee which was adopted by SHCC.

Both the technical committee and SHCC found that all three criteria set out by K.S.A. 65-5006 have been met and recommended licensure as the appropriate level of credentialing. The statute states that all three criteria must be met before a recommendation for credentialing can be made.

I have reviewed the final report and recommendations of the committee and SHCC and the official record.<sup>1</sup> In addition, I have applied the criteria established by 65-5006 and 65-5007.

In summary I find that:

- The applicant has met Criterion 1 of the need for credentialing by demonstrating that "the unregulated

<sup>1</sup>The official record consists of: the application, Letter of Intent, 100 signatures, presentations of applicant and interested persons at the technical committee hearings, minutes of the technical committee and SHCC meetings, public hearing testimony, and preliminary and final reports of the committee and SHCC.

*PHW*  
*Attn #1*  
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practice of Dietitians can harm or endanger the health, safety, or welfare of the public" and that "the potential for such harm is recognizable and not remote."

Evidence presented at the technical committee hearings demonstrated that functions of Dietitians (specifically the function of providing nutritional advice) can be dangerous if performed by an untrained practitioner such as employees of health food stores, diet centers or persons who call themselves nutritionists. Currently, a majority of the Dietitians are employed by institutions such as hospitals or schools and are registered by the Commission on Dietetic Registration. Instances of harm and endangerment were presented through examples involving: 1) the use of unscientific assessment (i.e. hair analyses), 2) treatment by large doses of a vitamin resulting in vitamin intoxication, and 3) hospitalization due to improper dietary plans. The potential for such harm is recognizable as reflected by case studies on the number of health food store clients who received erroneous advice from unqualified practitioners which could lead to harm and other research papers which describe possible harm including death resulting from untrained practitioners. However, the actual numbers of individuals harmed from untrained persons providing nutritional advice in Kansas and across the nation was not documented.

- The applicant has met Criterion 2 of the need for credentialing by demonstrating that "Dietitians require specialized skill and training," and that "they provide the public with the assurance of the initial and continuing ability necessary for the practice."

Evidence presented at the technical committee hearing demonstrated that there is an identifiable scope of knowledge/training necessary to perform the functions of a Dietitian. A minimum of a baccalaureate degree in nutrition or dietetics is necessary. Assurance of continuing ability to perform functions due to changes in the profession requires continuing education/training.

- The applicant has met Criterion 3 of the need for credentialing by demonstrating that "no other means other than credentialing exists to protect the public from harm by the practice."

Evidence presented at the technical committee hearing demonstrated that no other means exist, such as: laws governing the standard of practice, effective enforcement of ethics for professional performance, federal licensing or credentialing, or required on-the-job training, in order to protect the public from harm.

- Because all three criteria on the need for credentialing have been met according to the statutes, it is concluded that the need for credentialing of Dietitians does exist in Kansas.
- Therefore, I recommend that registration be the appropriate level of credentialing for Dietitians since the public's health, safety, and welfare can be protected by identifying practitioners who possess certain minimum educational/training skills necessary to provide nutritional advice.
- I recommend Dietitians as the appropriate professional title rather than Dietitians/Nutritionists for the following reasons:
  1. The application primarily deals with the profession of of Dietitians not Nutritionists; and
  2. The effect of credentialing of both Dietitians/ Nutritionists as one profession has not been addressed. (Not all persons trained in nutrition seek to work as registered Dietitian). :
- I recommend that the Board of Healing Arts as the appropriate regulatory board. :

Barbara J. Sabol, Secretary  
Kansas Department of Health and Environment



Testimony Presented to  
House Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

HOUSE BILL 2464

The Secretary of the Department of Health and Environment recommends licensure of dietitians. This would offer the identification of appropriately educated and trained dietitians and provides state recognition of the profession. We suggest the following changes to House Bill 2464.

First, we recommend that a multiprofessional regulatory agency be established to perform these credentialing functions. However, it would be more expedient to place these duties in an existing agency.

Since the credentialing review by the Department of Health and Environment primarily dealt with the dietitian rather than the nutritionist, it is recommended that the appropriate title for this Act is "Dietitian". The effect of credentialing both professions as one profession has not been examined. We also recommend that the requirement for a code of ethics to be developed through regulations be deleted. Traditionally, the role of developing a code of ethics is done by a professional organization.

We also recommend the following:

1. Remove the sentence which states that standards for qualifications and fitness shall be established at a level to adequately assure competency. The Secretary is already required to set standards to determine qualifications and fitness. A regulatory body cannot assure the competent performance of licensees nor does the state want to be liable for incompetency.
2. Set the provisional license to expire in one year. *eliminate 6 mo. extension.*
3. Specify the health care professions that are excluded from the requirements of this act.
4. Clarify what the services and activities of persons educated and trained in home economics are in relationship to practicing dietitians.

It would be very difficult for a regulatory agency to have the manpower to review each set of nonaccredited programs from the various colleges and universities in Kansas and the nation to determine if they meet standards. (Only Kansas State University has an accredited BS program and Kansas University has an accredited MA program.) Please note that applicants must have a degree in which major course work is in human nutrition, food and nutrition, and dietetic or food service management. A number of different

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degrees could be applicable. We are suggesting language to allow the Department to contract with a consultant to determine whether university and college programs meet standards. The cost of contracting for service is not known precisely but is likely to be at least \$25,000 the first year when 600 dietitians will apply for licensure.

The statutes state that the fees collected must cover the cost of administering the program. To do so, the application fee would be around \$265; the renewal fee, \$200; and the provisional license fee, \$25.

Thank you for allowing us the opportunity to share our concerns and suggestions about this bill.

Presented by:  
Gary K. Hulett, Ph.D  
Under Secretary  
Department of Health and Environment  
January 19, 1988



## HOUSE BILL No. 2464

By Committee on Public Health and Welfare

2-23

0017 AN ACT providing for licensure of dietitians; providing for  
0018 administration of the act by the secretary of health and envi-  
0019 ronment; creating the advisory board on dietetics; prohibiting  
0020 certain acts and providing penalties therefor.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. This act shall be known and may be cited as the  
0023 dietitians licensing act.

0024 Sec. 2. For the purposes of this act:

0025 (a) "Secretary" means the secretary of health and environ-  
0026 ment.

0027 (b) "Department" means the department of health and envi-  
0028 ronment.

0029 (c) "Board" means the advisory board on dietitians.

0030 (d) "Degree" means a degree received from a college or  
0031 university that was regionally accredited at the time the degree  
0032 was confirmed.

0033 (e) "Licensed dietitian" means a person licensed under this  
0034 act.

0035 (f) "Provisionally licensed dietitian" means a person provi-  
0036 sionally licensed under this act.

0037 (g) "Dietetics practice" means the integration and applica-  
0038 tion of principles derived from the sciences of nutrition, bio-  
0039 chemistry, food, physiology, management and behavioral and  
0040 social sciences to achieve and maintain the health of people  
0041 through the provision of nutrition care services.

0042 (h) "Nutrition care services" means:

0043 (1) Assessing the nutritional needs of individuals and groups  
0044 and determining resources and constraints in the practice set-  
0045 ting;

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0046 (2) establishing priorities, goals and objectives that meet  
 0047 nutritional needs and are consistent with available resources and  
 0048 constraints;

0049 (3) providing nutritional counseling in health and disease;

0050 (4) developing, implementing and managing nutrition care  
 0051 systems; and

0052 (5) evaluating, making changes in and maintaining appro-  
 0053 priate standards of quality in food and nutrition care services.

0054 (i) "Nutritional assessment" means the evaluation of the nu-  
 0055 tritional needs of individuals and groups based upon appropriate  
 0056 biochemical anthropometric, physical and dietary data to deter-  
 0057 mine nutrient needs and recommend appropriate nutritional  
 0058 intake including enteral and parental nutrition.

0059 (j) "Nutrition counseling" means advising and assisting in-  
 0060 dividuals or groups on appropriate nutritional intake by inte-  
 0061 grating information from the nutritional assessment with infor-  
 0062 mation on food and other sources of nutrients and meal  
 0063 preparation consistent with cultural background and social eco-  
 0064 nomic status.

0065 (k) "Dietitian" means a person engaged in dietetics practice.

0066 Sec. 3. (a) Only a person licensed or otherwise authorized to  
 0067 practice under this act shall practice dietetics. Only a person  
 0068 licensed under this act shall use the title "dietitian," "nutrition-  
 0069 ist," "licensed dietitian"; alone or in combination with other  
 0070 titles or use the letters L.D. or any other words or letters to  
 0071 indicate that the person using the same is a licensed dietitian.

0072 (b) Violation of this section is a class C misdemeanor.

0073 Sec. 4. There is hereby created the advisory board on dieti-  
 0074 tians which shall be advisory to the secretary. The board shall  
 0075 consist of five members, three of whom shall be licensed dieti-  
 0076 tians under this act and two of whom shall be members of the  
 0077 public. All members shall be appointed by the governor and  
 0078 shall serve terms of three years except that for the initial ap-  
 0079 pointment, two shall be appointed for a term of three years, one  
 0080 for a term of two years and two for a term of one year as specified  
 0081 by the governor. Each dietitian appointed to the board shall have  
 0082 been engaged in the practice of dietetics for not less than five

———— Delete the word "nutritionist."

0083 years. Members of the advisory board on dietitians attending  
0084 meetings of such board or attending a subcommittee meeting  
0085 thereof authorized by such board shall be paid amounts provided  
0086 in subsection (e) of K.S.A. 75-3223 and amendments thereto.

0087 Sec. 5. The secretary may adopt rules and regulations nec-  
0088 essary for the implementation of this act including the adoption  
0089 of a code of ethics, setting standards to determine the qualifica-  
0090 tions and fitness of applicants, setting standards for approval of  
0091 educational programs under this act, setting procedures for the  
0092 issuance and reissuance of licenses, for the revocation, suspen-  
0093 sion or denial of licenses, for the receiving and processing of  
0094 complaints and for the providing of examination for applicants.

0095 ~~Standards established under this section to determine the quali-~~  
0096 ~~fications and fitness of applicants shall be established at a level~~  
0097 ~~adequate to assure the competent performance by licensed die-~~  
0098 ~~titians of dietetics practice.~~

0099 ~~Sec. 6-~~ (a) No person shall be granted a license as a dietitian  
0100 unless such person has:

0101 (1) Filed an application and paid the required application  
0102 fee;

0103 (2) received a baccalaureate or post-baccalaureate degree  
0104 from a college or university with a major course of study in  
0105 human nutrition, food and nutrition, dietetics or food service  
0106 management approved by the secretary as meeting the standards  
0107 for approval of educational programs under this act;

0108 (3) (A) completed a planned, continuous program of dietetic  
0109 experience of not less than 900 clock hours under the supervi-  
0110 sion of a licensed dietitian which is approved by the secretary; or  
0111 (B) received a master's degree or a doctor's degree from a college  
0112 or university in nutrition or a related course of study approved by  
0113 the secretary as meeting the standards for approval of educa-  
0114 tional programs under this act; and

0115 (4) passed an examination approved by the secretary.

0116 (b) Licenses shall be issued for a period of two years.

0117 ~~Sec. 7-~~ (a) A provisional <sup>license</sup> permit to practice as a dietitian may  
0118 be issued by the secretary upon the filing of an application,  
0119 payment of the required application fee and submission of evi-

———— Delete the words "the adoption of a code of ethics,"

———— Delete lines 0095 through 0098.

———— Add new section: Sec. 6. The Secretary shall adopt rules and regulations establishing the criteria which a college or university shall satisfy in order to be approved by the board. The board may send a questionnaire developed by the board to any college or university for which the board does not have sufficient information to determine whether the school meets the requirements for approval and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the college or university to be considered for approval. The board may contract with investigative agencies, commissions, or consultants to assist the board in obtaining information about colleges and universities. In entering such contracts, the authority to approve college and universities shall remain solely with the board.

———— Change to "Sec. 7."

*change "permit" to "license"*  
*line 117*

———— Change to "Sec. 8."

0121 on completion of successful completion of the education requirements for licensure under this act.

0122 (b) The provisional permit shall expire one year from the date of issuance. ~~The provisional permit may be renewed for one period of not to exceed six months if the secretary determines that a satisfactory explanation exists for the applicant's failure to become licensed within the original period and if the applicant has paid the required renewal fee.~~

0123 (c) A provisional permit shall permit the holder to practice only under the supervision of a dietitian licensed in this state.

0130 Sec. 8. For one year beginning on the effective date of this act, the secretary shall waive the examination requirement and grant a license to a person who:

0133 (a) Meets the educational and experienced requirements set forth by this act on the effective date of this act; or

0135 (b) meets the educational requirements and on the effective date of this act has been employed as a dietitian for at least three of the five years immediately preceding the effective date of this act.

0139 Sec. 9. Licenses may be renewed upon payment of the required renewal fee and successful completion of at least 15 hours continuing education during the licensure period.

0142 Sec. 10. The secretary may license, without examination, any person who is duly licensed in another state if the standards for licensure in such other state are not less than the standards for licensure under this act.

0146 Sec. 11. So long as the following persons do not hold themselves out to the public to be a licensed dietitian, ~~nutritionist~~, or use the abbreviation L.D., or any combination thereof, nothing in this act shall prohibit:

0150 (a) A student enrolled in an approved academic program in dietetics or nutrition, or both, from engaging in dietetics practice under the supervision of a person licensed under this act as part of such academic program;

0154 (b) ~~a licensed health-care professional from engaging in dietetics practice if the licensing or regulatory statutes of such health-care professional provide for or allow the giving of diete-~~

\_\_\_\_\_ Delete the word "permit" and change to "license."

\_\_\_\_\_ Delete.

*128 - change "permit" to "license"*

Change to "Sec. 9."

Add: "pays the renewal fee and who:"

\_\_\_\_\_ Change to "Sec. 10."

\_\_\_\_\_ Change to "Sec. 11."

\_\_\_\_\_ Change to "Sec. 12."

\_\_\_\_\_ Delete the word "nutritionst."

\_\_\_\_\_ Delete lines 0154 through 0158 and replace with: a physician and surgeon, nurse, dentist, chiropractor, dental hygienist, pharmacist, and physician assistant who make dietetic or nutritional assessments or advise in the normal practice of their profession or otherwise authorized by law.

0157 ~~licensing additional advice within the scope of professional practice~~  
0158 ~~of such health care professional; or~~

0159 (c) any person who holds a baccalaureate degree in home  
0160 economics from engaging in dietetics practice insofar as the  
0161 services and activities ~~are within the scope of that person's~~  
0162 ~~education and training.~~

0163 ~~Sec. 12.~~ The secretary shall fix by rules and regulations fees  
0164 for applications for and renewal of ~~licenses and special permits~~  
0165 under this act. Such fees shall be fixed in an amount to cover the  
0166 costs of administering the provisions of this act. The secretary  
0167 shall remit all moneys received from fees, charges or penalties  
0168 under this act to the state treasurer at least monthly. Upon  
0169 receipt of each such remittance the state treasurer shall deposit  
0170 the entire amount thereof in the state treasury and credit the  
0171 same to the state general fund.

0172 ~~Sec. 13.~~ This act shall take effect and be in force from and  
0173 after its publication in the statute book.

————— Delete and substitute with: if such practice is conducted as part of the employment as an instructor or extension worker in accordance with the person's education and training.

————— Change to "Sec. 13."

————— Delete the words "licenses and special permits" and change to: license and provisional licensure fee.

————— Change to "Sec. 14."