

Approved

1-28-88  
Date sh

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin L. Littlejohn at  
Chairperson

1:30 a.m. on January 27, 1988 in room 423-S of the Capitol.

All members were present except:

Representative Amos, excused

Committee staff present:

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

Conferees appearing before the committee:

Representative Ed Bideau  
Dr. Stanley Grant, Secy. Department Health & Environment  
Mr. Norman Furse, Revisor  
Chip Wheelen, Ks. Medical Society  
Representative Branson  
Richard Morrissey, Dir. Bureau/Adult & Child Care/Health/Environ.  
Larry Buening, Jr., General Counsel/ Ks. Bd. Healing Arts  
Tom Bell, Kansas Hospital Association  
Jerry Slaughter, Kansas Medical Society  
Carl Schmitthener, Kansas Dental Society  
Elizabeth Taylor, Federation of Licensed Practical Nurses  
Terri Roberts, Kansas State Nurses Association  
Dr. Lois Scibetta, Ph.D./Ks. State Board of Nursing

Chairman called meeting to order, noting we will entertain bill requests before testimony begins on HB 2642 and HB 2643.

Rep. Ed. Bideau gave hand-out, see (Attachment No. 1 for details). He explained the "Guide Dog Puppy Raising Program", now being done by Kansas 4-H members, and there is a need to revise some language in Kansas statutes because of the training of these animals. Dog trainees have run into some situations where they are barred from public facilities even though they are certified participants in this program. It is a worthwhile program. This group is requesting that guide dogs accompanying a blind individual, but also accompanying a certified training individual. We are asking that K.S.A. 39-1102 be revised.

Motion to introduce this legislation was made by Rep. Weimer, seconded by Rep. Pottorff, motion carried.

Dr. Stanley Grant, Secy. Health and Environment gave hand-out, (see Attachment No. 2 and No.3) for details. Their Department is requesting the Adult Care Home licensure fee from an annual basis to a fee that would be paid each time a license needs to be granted. Also, they request a bill to be introduced that would speak to amending Ks. statutes K.S.A. 65-1,107 and K.S.A. 65-1,108 that would require laboratories rather than persons to perform certain tests, and would also amend statutes in regard to penalties.

Motion to introduce these bills was made by Rep. Buehler, seconded by Rep. Harder, motion carried.

Chair announced that in Rep. Amos's absence, Mr. Furse would make the bill request in his behalf. This bill request would amend the Uniform Vital Statistics Act. Eight sections would eliminate the position of Local Registrar of Vital Statistics, and insert in lieu thereof, the State Registrar.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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 27, 1988.

Bill requests continue:--

Rep. Hassler made a motion to introduce this legislation, seconded by Rep. Whiteman, motion carried.

Chip Wheelen, Kansas Medical Society asked a bill be introduced that would speak to the reporting of burn wounds. There has been a problem with regulations, not with existing law, however, they ask, he said that K.S.A. 31-133 be amended to cover this concern. (Attachment No. 4 for details).

Motion to request this bill made by Rep. Pottorff, seconded by Rep. Whiteman, motion carried.

Rep. Branson asked for legislation to be introduced to speak to the non-smoking bill passed last year. This request would refine language to clarify the total area in a restaurant or other areas would not exceed 50% for smoking. Several Groups have requested this bill be introduced, i.e., Heart/Lung/Cancer Societies.

Motion made by Rep. Harder this legislation be introduced, seconded by Rep. Neufeld, motion carried.

Second bill request from Rep. Branson is to strengthen the child passenger safety act. There are several groups asking to have this legislation introduced.

Motion to introduce legislation to strengthen the child passenger law be introduced was made by Rep. Blumenthal, seconded by Rep. Whiteman, motion carried.

Chair announced if anyone else wishes to ask for bill introductions, there will be time tomorrow before regular committee discussion.

Hearings began on HB 2642:--

Dr. Stanley Grant introduced Mr. Dick Morrissey, Director of Adult and Child Care of Health & Environment.

Mr. Morrissey gave handout, (see Attachment No. 5 for details). It is recommended by their Department civil fines be assessed by the regulating agency. On Page Eight of Proposal No. 29, the special committee on interim study concluded, "it is inappropriate for an agency with no regulatory authority over a health care provider to have authority to assess a civil fine against such provider. Their department supports passage of HB 2642.

Larry Buening, Jr., General Counsel of Board of Healing Arts gave hand-out, (see Attachment No.6.) He stated their Board regulates and administers laws pertaining to 10 professions related to health care. Medical care facilities required to report under K.S.A. 65-28,121, are under jurisdiction of and licensed by Dept. Health/Environment. It would seem logical the agency which licenses care facilities should also be the one to assess penalties for noncompliance with any law.

Tom Bell, Kansas Hospital Association stated their people support HB 2642, feel it is a technical amendment and proposed changes are appropriate.

Chair called attention to fiscal notes on HB 2640, HB 2643, shown as (Attachments 7 and 8) this date.

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 27, 1988

Hearings began on HB 2643:---

Dick Morrissey gave hand-out, see (Attachment No.9), and said their Department, Health and Environment supports passage of HB 2643. They believe that registered, certified, and/or licensed health care professionals should be required to report incidents which were or could be below standards of care and either did or might have caused patient injury. Both the public and providers would benefit from the development of risk management plans in private psychiatric hospitals as with public psychiatric hospitals and acute care facilities. Whether Health and Environment or Social Rehabilitation Services should review and approve risk management plans developed by private psychiatric hospitals is an important issue. Options are, i.e., H. & E. could monitor and review plans and report deficiencies to SRS for disciplinary action since SRS is agency licensing agency; or to have SRS as the licensing agency, review and monitor risk management programs in private psychiatric hospitals. Authority to enforce corrections would be possible then as with any other licensing requirement. He answered questions.

Larry Buening, Board of Healing Arts (see Attachment No.10). His printed materials were testimony, confidential quarterly report form, form of report on adverse findings, and letter from Behavioral Center in Parsons, Ks. He apprised committee about a lawsuit currently now before their Board involving having records made available pursuant to present statutes. There is a conflict in provisions, and he expressed his concern in this regard. We feel, he said, if K.S.A. 65-4915(d) stands as it presently exists, it would be disastrous for peer-review. He feels it was the vision of the legislation to encourage open and free flow of information from various peer review organizations, so that appropriate and prompt action could be taken when necessary. Feels the bill does not go far enough to protect confidentiality, and he presented a balloon copy of HB 2643, (see Attachment No.11) that indicates striking language on lines 120 through 123, and to insert the words, "be confidential and".

Chair noted at this time, during questions, there were technical problems. He asked Mr. Furse, Revisor to check the information and inform the committee his findings at the time the bill is debated.

Jerry Slaughter, Kansas Medical Society, (see Attachment No. 12) for details. He recommended an amendment fo HB 2643, to add language in lines 127 through 129 in regard to peer review. Their Society believes peer review would be more effective if the hospital committees and local medical societies could exchange information more freely.

Chip Wheelen spoke in behalf of Ks. Psychiatric Society, (Attachment No. 13). His Society would like to point out there are inconsistencies and request amendment to also define organized medical staffs of psychiatric hospitals licensed under statutes as health care provider groups. This would bring them into compliance with the peer review officer or committee definition. This legal technicality would also assure the important protections contained in Section 1(b).

Carl Schmitthenner, Ks. Dental Society. Their people support the intent of the bill, but are concerned that HB 2643 may have a chilling effect on on peer review system. People may be less responsive to peer review when they see all reports will be going to a state agency.

Tom Bell, Kansas Hospital Society, (see Attachment No. 14) stated HB 2643 is very strict. It presents challenges. They are in support of the amendment recommended by Ks. Medical Society as it will help small rural hospitals.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S, Statehouse, at 1:30 a.m. on January 27, 1988.

Hearings continued on HB 2643:----

Tom Bell continued testimony highlighting their position on various sections of HB 2643. He noted statute K.S.A. 65-4921 through K.S.A. form, perhaps the strictest statutory reporting scheme in the country.

Elizabeth Taylor, Federation of Licensed Practical Nurses spoke in support of HB 2643. Their group has no concerns with the bill.

Terri Roberts, (see Attachment No. 15), for details. Their group feels they are not having a problem, they have a good system for disciplining their professionals. To her knowledge there has not been any one licensee disciplined by the Boards for failure to report a reportable incident. With statutes for reporting being in place for just over a year, it is difficult to determine the effectiveness yet. She noted, House Governmental Organization Committee had introduced a mandatory reporting bill similar to HB 2463, and she now is uncertain if that will be discussed in light of HB 2463. She answered questions.

Elizabeth Taylor spoke once again, noting HB 2643 does not specifically address the statutes that does allow for contracting for peer assistance and we would like to submit, she said, to your consideration statutes do allow that peer assistance by any professional organization and our group would not support in any way, that being changed, to designate a professional association. She had not planned to bring this up, but in light of other testimony this date, felt it necessary.

Dr. Lois Scibetta, State Board of Nursing gave hand-out, (see Attachment No. 16), for details. She noted their Board supports HB 2643 in principle, feeling it broadens the definition of Health Care Provider to include all of the Board of Nursing licenses. It also allows their Board to enter into an agreement with the professional association for the monitoring of impaired licenses, and amends the Mental Health Technician Act. Their Board and the Kansas State Nurses Association have agreed those who voluntarily entered into the Peer Assistance Program where there was no public threat or evidence of impairment in workplace, could be handled by a joint review committee from the Board of Nursing and the Peer Assistance Program. She answered questions.

Hearings closed on HB 2642 and HB 2643.

Meeting adjourned 3:00 p.m.





## Cooperative Extension Service

Neosho County Extension Office  
Box 217, Courthouse  
Erie, Kansas 66733  
(316) 244-3251

January 6, 1988

Ed Bideau  
State Representative  
House of Representatives  
State House  
Topeka, Kansas 66612

Dear Mr. Bideau,

Thank you for your call on January 6th. Let me first of all give you a little background on the Guide Dog Puppy Raising Program. There are nine certified Guide Dog Training facilities in the United States. Each of these maintains a breeding program of dogs to produce puppies of superior intelligence and temperament. These puppies are placed in 4-H homes across the country to be raised to one year of age. Kennel raised puppies have absolutely no chance of becoming Guide Dogs. The puppies must be socialized to as many different situations as possible that they might encounter as a Guide Dog. This is the reason that the Kansas Law concerning "Rights of the blind, and visually handicapped" must be changed to cover Guide Dog Trainees.

The Kansas 4-H Guide Dog Puppy Raising Program began on March 7, 1986 with the arrival of four labrador puppies from Pilot Dogs, Inc. of Columbus, Ohio. These labradors were successfully raised and trained and are now working Guide Dogs. Four boxer puppies arrived on January 28, 1987. They are now back in Ohio completing their training at Pilot Dogs. Three labradors and one doberman puppy are currently being raised by 4-H families in Cloud and Washington counties. Four labrador puppies will be arriving in March 1988 to be placed in 4-H homes, and then a bred German Shepard female will be arriving in October 1988 and all puppies placed with 4-H families in Kansas. We anticipate that about 25 puppies will be annually raised by 4-H families in Kansas in the future.

I have enclosed some additional information on the program at Pilot Dogs, Inc., as well as some of the publicity that has been received on this program the last couple of years.

Also, I have contacted Steve Fisher, State Specialist 4-H and Youth Programs and Kirk Astroth, Area 4-H Specialist. Steve and Kirk are willing to testify before the House and Senate Committees as well. Please let me know if I should contact any other people to testify on our behalf -- possibilities I have thought of...a representative from Kansas Services for the Blind, someone from the Wal-Mart and McDonald's where we have previously trained our puppies, the veterinarians that care for the puppies, etc. Also would letters from

*attn #1  
1-27-8  
JHCU*

page 2 - Ed Bideau

various interested parties be of any help? If so, who should they be sent to? This program has a lot of support that I could call on if necessary.

I am unfamiliar with the process required to amend a law, but am willing to do whatever is necessary to get the job done. Your cooperation in this matter is greatly appreciated.

Sincerely,



Marta B. Laylander  
County Extension  
Agricultural Agent

MBL/nk

encl:

cc: John Gray  
Steve Fisher  
Kirk Astroth

\_\_\_\_\_ BILL NO. \_\_\_\_\_  
 BY \_\_\_\_\_

AN ACT relating to adult care home; license fee; disposition; amending K.S.A. 39-930 and repealing the existing section.

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

Section 1. K.S.A. 39-930 is hereby amended to read as follows: 39-930. Annual license fee; disposition. The annual fee for license to operate an adult care home shall be a base amount plus an additional amount for each bed of such home which shall be paid to the secretary of health and environment before the license is issued. The annual fee shall be fixed by rules and regulations of the secretary of health and environment. The annual fee shall be deposited in the state treasury and credited to the state general fund unless the evaluation and inspection was made by a county, city-county or multicounty health department at the direction of the secretary of health and environment and the papers required are completed and filed with the secretary, then 2/5 of the fee collected shall be forwarded to such county, city-county or multicounty health department. If a facility has a change of administrator after the commencement of the licensing period, the fee shall be \$15 and shall be deposited in the state treasury and credited to the state general fund. The annual fee in effect under this section on the day preceding the effective date of this act shall continue in effect until the secretary of health and environment fixes a different fee by rules and regulations.

Sec. 2. K.S.A. 39-930 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

*Attn # 2  
 PHW  
 1-27-88*

BILL NO. \_\_\_\_\_

BY \_\_\_\_\_

AN ACT relating to the secretary of health and environment, amending K.S.A. 1986 Supp. 65-1,107 and K.S.A. 65-1,108 repealing the existing sections.

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

Section 1. K.S.A. 1986 Supp. 65-1,107 is hereby amended to read as follows: 65-1,107. The secretary of health and environment is hereby authorized and empowered to promulgate rules and regulations establishing:

(a) The procedures and qualifications for ~~the--registering--and~~ approving of laboratories performing prenatal serological examinations for syphilis. serological examinations for human immunodeficiency virus and tests for illegal drugs as included in schedule I or II of the controlled substance act;

~~(b) the--procedures--and--methods--of--examination--and--approval--of--persons performing--serology--tests--in--approved--laboratories;~~

(e) (b) the procedures, qualifications of personnel and standards of performance in the testing of human breath for law enforcement purposes, including procedures for the periodic inspection of apparatus, equipment and devices, other than preliminary screening devices, approved by the advisory commission secretary of health and environment for the testing of human breath for law enforcement purposes;

(d) (c) the requirements for training, certification and periodic testing of persons who operate apparatus, equipment or devices, other than preliminary screening devices, for the testing of human breath for law enforcement purposes;

(e) (d) criteria for preliminary screening devices for testing of breath for law enforcement purposes, based on health and performance considerations; and

(f) (e) a list of preliminary screening devices which are approved for testing of breath for law enforcement purposes and which law enforcement agencies may purchase and train officers in the use of as aids in determining probable cause to arrest and grounds for requiring testing pursuant to K.S.A. 8-1001 and amendments thereto.

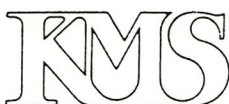
Attm # 3  
P H + W  
1-27-88



Sec. 2 K.S.A. 65-1,108 is hereby amended to read as follows: 65-1,1  
~~From-and--after-September--1,-1947;~~ It shall be unlawful for any person;~~-firm;~~  
~~corporation;-city-or-county~~ or laboratory to perform prenatal serological tests  
~~in--connection--with--premarital--or--prenatal--tests~~ examinations for syphilis  
serological examinations for human immunodeficiency virus or tests for illegal  
drugs as included in schedule I or II of the controlled substance act unless  
the laboratory in which such tests are performed shall have been registered  
with, and approved, by the secretary of health and environment and ~~unless all~~  
~~persons-employed-therein-who-perform-technical--laboratory-services--shall-have~~  
~~been-approved-by-the-secretary-of-health-and-environment.~~ Any person violating  
any of the provisions of this section shall be deemed guilty of a class B  
~~misdemeanor and--upon-conviction--thereof-shall--be-fined-not-less-than-twenty-~~  
~~five-dollars-(\$25)-or-more-than-five-hundred-dollars-(\$500).~~

Sec. 3. K.S.A. 1986 Supp. 65-1,107 and K.S.A. 65-1,108 are hereby  
repealed.

Sec. 4. This act shall take effect and be in force from and after its  
publication in the statute book.



# KANSAS MEDICAL SOCIETY

1300 Topeka Avenue · Topeka, Kansas 66612 · (913) 235-2383

Suggested amendment of K.S.A. 31-133:

(a) The state fire marshal shall adopt reasonable rules and regulations, consistent with the provisions of this act, for the safeguarding of life and property from the hazards of fire and explosion. Such rules and regulations shall include but not be limited to the following:

(no change to subsections (1) - (5))

(6) procedures for the reporting of fires and explosions and second and third degree burn wounds caused by fire, explosion, heat or chemical substance, occurring within the state and for the investigation thereof;

(7) notwithstanding the physician - patient privilege of K.S.A. 60-427, procedures for reporting by health care providers of treatment of second and third degree burn wounds involving twenty percent or more of the victim's body and requiring hospitalization of the victim;

(re-number subsections (7)-(9))

*Attn. #4  
PAID  
1-27-88*

22-5-6. Hospitals which treat burn patients and doctors or other health care providers who treat burn patients at any location other than a hospital shall report all second- and third-degree burn wounds to the state fire marshal on forms provided by the state fire marshal. Reports must be mailed no later than the Monday following the date of the first treatment of any wound. (Authorized by and implementing L. 1985, Ch. 128, Sec. 1 (6); effective May 1, 1986.)

### KANSAS BURN INJURY REPORTING SYSTEM

(This form must be completed for all 2nd & 3rd degree burn victims.)

Victim's Name and Address \_\_\_\_\_

Age of Victim: \_\_\_\_\_ Date of Injury: \_\_\_\_\_ Degree of Burn: \_\_\_\_\_

Area(s) Burned: \_\_\_\_\_

Local Fire/Police Chief Notified? Yes No (Please Circle)

Cause of Burn: \_\_\_\_\_

Address Where Burn Occurred: \_\_\_\_\_

Street & Number

City/Town

Zip Code

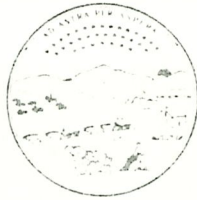
Name & Address of Hospital Where Treated: (if applicable) \_\_\_\_\_

Name & Address of Attending Physician: \_\_\_\_\_

\_\_\_\_\_ Please mail this card no later than the Monday following the date of the first treatment to: State Fire Marshal, (before Feb., 1987) 503 Kansas Ave., Suite 303, Topeka, Kansas 66603—(after Feb., 1987) 9th & Jackson, Topeka, Kansas 66612. For further information, call: (913) 296-3401.

(Note: K.A.R. 22-5-6 on reverse side)

STATE OF KANSAS



*Check morning*

DEPARTMENT OF HEALTH AND ENVIRONMENT

*Forbes Field*

*Topeka, Kansas 66620-0001*

*Phone (913) 296-1500*

Mike Hayden, *Governor*

Stanley C. Grant, Ph.D., *Secretary*

Gary K. Hulett, Ph.D., *Under Secretary*

Testimony Presented to

House Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

House Bill 2642

Background

~~House Bill 2642 was introduced by the Special Committee on Public Health and Welfare which conducted an interim study of Proposal No. 29 following the 1987 legislative session. House Bill 2642 makes only one substantive change in current law. Pursuant to KSA (1987 Supp.) 65-28,121, medical care facilities licensed by the Secretary of Health and Environment must notify the State Board of Healing Arts whenever such facilities have any information that any person licensed to practice healing arts has committed an act which may be grounds for disciplinary action or has been subject to termination, suspension, or restriction of professional privileges relating to professional competence. If a facility does not report it as required by law within 30 days, the State Board of Healing Arts, after proper notice and hearing, may assess a civil fine not to exceed \$1,000 for each day thereafter that the incident remains unreported.~~

During the special committee's interim study, testimony was received on the issue of whether the State Board of Healing Arts or the Secretary of Health and Environment, as the licensing agency for medical care facilities, should assess civil penalties. On page eight of the special committee's report concerning Proposal No. 29, 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." As a result, House Bill 2642 was amended to authorize the Secretary of Health and Environment to assess civil penalties.

Recommendations

The Department of Health and Environment understands the logic of having a civil fine assessed by the regulating agency. Since the bill is designed to

*attm # 5  
PH&W  
1-27-88*



assess penalties against medical care facilities licensed by the Secretary of Health and Environment, assessment of civil penalties by the Secretary is reasonable. The Department of Health and Environment supports passage of House Bill 2642.

Presented by: Richard J. Morrissey, Director  
Bureau of Adult and Child Care  
January 27, 1988

## BOARD OF HEALING ARTS

OFFICE OF

RICHARD A. UHLIG, D.O., SECRETARY  
 CHARLENE K. ABBOTT, EXECUTIVE SECRETARY  
 LAWRENCE T. BUENING, JR., GENERAL COUNSEL  
 JOSEPH M. FURJANIC, DISCIPLINARY COUNSEL  
 LONDON STATE OFFICE BUILDING  
 900 S.W. JACKSON, SUITE 553  
 TOPEKA, KS. 66612-1256  
 (913) 296-7413



## MEMBERS OF BOARD

CAMERON D. KNACKSTEDT, D.O., PRESIDENT, PHILLIPSBUR  
 REX A. WRIGHT, D.C., VICE-PRESIDENT, TOPEKA  
 RICHARD A. UHLIG, D.O., SECRETARY, HERINGTON  
 F. CALVIN BIGLER, M.D., GARDEN CITY  
 HAROLD E. BRYAN, D.C., FORT SCOTT  
 EDWARD J. FITZGERALD, M.D., WICHITA  
 PAUL T. GREENE, JR., D.C., GREAT BEND  
 JOHN B. HIEBERT, M.D., TOPEKA  
 GLENN I. KERBS, DODGE CITY  
 GRACIELA A. MARION, EUDORA  
 GORDON E. MAXWELL, M.D., SALINA  
 TOM REHORN, MISSION  
 HAROLD J. SAUDER, D.P.M., INDEPENDENCE  
 DAVID WAXMAN, M.D., LENEXA  
 JOHN P. WHITE, D.O., PITTSBURG

TO: House Committee on Public Health & Welfare

FROM: Lawrence T. Buening, Jr., General Counsel  
 Kansas State Board of Healing Arts

*LYB*

DATE: January 27, 1988

RE: HB-2642

Thank you very much for the opportunity to appear before you this afternoon and provide testimony on HB-2642. My testimony will be more in the form of information rather than submitting to you the State Board of Healing Arts' position on this particular bill.

K.S.A. 65-28,121 was enacted originally by the 1983 Legislature. This statute required medical staffs or governing bodies of "any firm, facility, corporation, institution or association which has granted practice privileges to, or which has employed or is employing, any person licensed, registered or certified by the state board of healing arts" to report to the Board if privileges were adversely affected for reasons relating to competency or for violations of the statutes administered by the Board. In 1986, the statute was amended to apply only to a "medical care facility" and at that time authorized the \$1,000 per day civil penalty if an incident is not reported to the Board within 30 days as required.

The State Board of Healing Arts regulates and administers the laws pertaining to 10 professions relating to health care. Medical care facilities required to report under K.S.A. 65-28,121 are under the jurisdiction of and licensed by the Department of Health and Environment. Therefore, it would seem logical that the agency which licenses medical care facilities should also be the one which would have the right to assess penalties for noncompliance with any laws.

It is acknowledged that the Board has not heretofore utilized this section and assessed any penalty. However, I am quite confident that most medical care facilities are well aware of this provision and the possibility of the imposition of a fine. As a result, I think it is appropriate to keep some sort of penalty for noncompliance in the law. To require entities or persons to perform certain acts under the law but not provide any penalty for noncompliance with such laws could result in willful noncompliance.

Thank you very much for the time you have provided me today and I am available for any questions you might have.

LITB/sl

*Attn. #6  
 PHW  
 1-27-88*

58

The Honorable Marvin Littlejohn, Chairperson  
Committee on Public Health and Welfare  
House of Representatives  
Third Floor, Statehouse

Dear Representative Littlejohn:

SUBJECT: Fiscal Note for House Bill No. 2640 by Special Committee on  
Public Health and Welfare

In accordance with K.S.A. 75-3715a, the following fiscal note concerning  
House Bill No. 2640 is respectfully submitted to your committee.

House Bill No. 2640 removes the citizen requirement for licensure for  
the practice of veterinary medicine, dental hygiene or to be engaged in the  
business of a funeral director. Other amendments clarify the intent of the  
law.

No prospective estimates are available for determining the number of  
applicants who would desire a license and would be granted that right under  
House Bill No. 2640. Consequently, the additional licensure fees cannot be  
estimated for those non-citizens who will be licensed by these Boards.

To date, the Boards of Dental Examiners and of Mortuary Arts have  
responded to the Director of Budget's request for information regarding the  
potential fiscal impact from passage of House Bill No. 2640. The Board of  
Dental Examiners reports their budget may be impacted in the out years  
should disciplinary actions increase significantly. The Board of Mortuary  
Arts indicates their budget will not be impacted.

Any increase in fees collected by these Boards would increase the  
balances available but would not affect the recommendations contained in the  
FY 1989 Governor's Budget Report.

*m f o k e*  
Michael F. O'Keefe  
Director of the Budget

MFO:KLS:sr

1473

*Attn. # 9  
PH&W  
1-27-8*

Fiscal Note  
1988 Session  
January 26, 1988

Bill No.

The Honorable Marvin Littlejohn, Chairperson  
Committee on Public Health and Welfare  
House of Representatives  
Third Floor, Statehouse

Dear Representative Littlejohn:

SUBJECT: Fiscal Note for House Bill No. 2643 by Special Committee on  
Public Health and Welfare

In accordance with K.S.A. 75-3715a, the following fiscal note concerning  
House Bill No. 2643 is respectfully submitted to your committee.

Through amendment to the definition of the term "health care provider",  
House Bill No. 2643 extends the reporting requirements mandated by K.S.A.  
1987 Supp. 65-4923 to include licensed professional and practical nurses,  
mental health technicians, dentists, dental hygienists, physical therapy  
assistants, occupational therapists, occupational therapy assistants, and  
respiratory therapists. The reporting requirements relate to actions taken  
by health care providers that are or may be below the applicable standard of  
care and that have a reasonable probability of causing injury to a patient;  
or, that may be grounds for disciplinary action by the appropriate licensing  
agency. House Bill No. 2643 also amends the definition of medical care  
facility that appears in K.S.A. 1987 Supp. 65-4921 by including private  
psychiatric facilities licensed by the Secretary of Social and  
Rehabilitation Services. Also, the bill establishes procedures and  
penalties in response to failure on the part of medical care facilities to  
report certain incidents.

The State Board of Nursing estimates that it would require \$34,944 and  
1.5 FTE--a full-time investigator and a half-time clerical position--to  
implement the provisions of House Bill No. 2643 in FY 1989. Of the total  
cost, \$29,644 is attributed to salaries and wages; \$2,300 to travel,  
supplies and related operating costs; and \$3,000 to court reporter  
services. The additional costs are based on investigation of an estimated  
2,721 to 3,400 incidents per year. If the Board of Nursing enters into an  
agreement for a peer assistance program, which the bill authorizes but does  
not require, additional costs of approximately \$61,000 would be incurred.

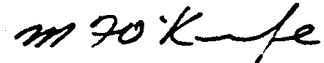
Since the Board of Nursing is entirely fee-supported, it is presumed  
that expenditures related to passage of House Bill 2643 would be financed  
from fee revenues. The Governor's budget recommendations for the Board of  
Nursing provide for ending balances of \$85,849 in FY 1988 and \$174,108 in FY  
1989, so it appears that FY 1989 expenditures required by implementation of  
House Bill No. 2643 could be made without adjustment to the agency's fee  
structure. If the peer assistance program were also implemented, further  
analysis of the agency's cashflow requirements would be required to  
determine what, if any, fee adjustments would be necessary.

*PH 10*  
*Attn #8*  
*1-27-8*



The Board of Healing Arts, the Board of Dental Examiners, the Department of Health and Environment and the Department of Social and Rehabilitation Services report no fiscal impact from the provisions of this bill. The Board of Dental Examiners indicates, however, that there could be long-term fiscal implications depending on the number of reportable incidents and resultant increase in disciplinary actions.

Any expenditures resulting from passage of this bill would be an adjustment to amounts contained in the FY 1989 Governor's Budget Report.



Michael F. O'Keefe  
Director of the Budget

MFO:JJ:pks

cc: Dr. Lois Scibetta, Board of Nursing  
Cynthia Barrett, Board of Dental Examiners  
Charlene Abbott, Board of Healing Arts  
Dr. Stanley Grant, Department of Health and Environment  
Winston Barton, Department of Social and Rehabilitation Services  
Helen Chop, President, State Board of Nursing

1491

Testimony Presented to

*Dick Moore 7*

House Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

House Bill 2643

Background

House Bill 2643 was introduced by the Special Committee on Public Health and Welfare pursuant to a study of Proposal 29. House Bill 2643 increases the list of health care professionals who must comply with mandated reporting requirements of possible substandard care. Under current law, certain health care professionals are required to purchase medical malpractice insurance and are covered by the Health Care Stabilization Fund in the event of a malpractice lawsuit. Those professionals who must purchase insurance are defined at KSA 40-3401 as "health care providers." When the mandatory reporting provisions of KSA (1987 Supp.) 65-4915 et seq were enacted in 1986, only those persons and entities defined as "health care providers" were included. These were primarily medical and osteopathic physicians, medical care facilities (hospitals, ambulatory surgical centers, and recuperation centers licensed by the Department of Health and Environment), health maintenance organizations, optometrists, podiatrists, pharmacists, nurse anesthetists, dentist anesthetists, physical therapists, psychiatric hospitals, and mental health centers. House Bill 2643 would expand this list to include additional professionals, including those who have been recognized by the state through registration since 1986. The new group would include all dentists, dental hygienists, professional nurses, practical nurses, licensed mental health technicians, physical therapist assistants, occupational therapists, and respiratory therapists.

In addition to expanding the list of professionals who must report potential substandard care, the term "medical care facility" has been amended to include private psychiatric hospitals licensed by the Secretary of Social and Rehabilitation Services (SRS) under KSA 75-3307(b). This amendment would require private psychiatric hospitals to file risk management plans with the Department of Health and Environment in the same manner as acute hospitals did in 1987.

Recommendations

The Department of Health and Environment supports passage of House Bill 2643. The department believes that registered, certified, and/or licensed health care professionals should be required to report incidents which either were or might have been below the applicable standard of care and either did or might reasonably have caused patient injury. In addition, both the public and providers would benefit from the development of risk management plans in private psychiatric hospitals as with public psychiatric hospitals and acute care facilities.

*attm. #9  
1-27-88  
PHW*

The question of whether the Secretary of Health and Environment or the Secretary of Social and Rehabilitation Services should review and approve risk management plans developed by private psychiatric hospitals is an important issue. One option would be to have plans reviewed and monitored by the Department of Health and Environment, with program deficiencies presented to SRS for possible disciplinary action by it as the licensing agency. This might require an amendment to the licensing statute for private psychiatric hospitals (KSA 75-3307[b]). Without any involvement of SRS (the licensing agency), the Department of Health and Environment would be without any program enforcement authority. A second option would be to have SRS, as the licensing agency, review and monitor risk management programs in private psychiatric hospitals. Authority to enforce needed corrections would then be possible as with any other licensing requirement.

Presented by: Richard J. Morrissey  
Director, Bureau of Adult  
and Child Care  
Kansas Department of Health  
and Environment

January 27, 1988

## BOARD OF HEALING ARTS

OFFICE OF

RICHARD A. UHLIG, D.O., SECRETARY  
 CHARLENE K. ABBOTT, EXECUTIVE SECRETARY  
 LAWRENCE T. BUENING, JR., GENERAL COUNSEL  
 JOSEPH M. FURJANIC, DISCIPLINARY COUNSEL  
 LANDON STATE OFFICE BUILDING  
 900 S W JACKSON, SUITE 553  
 TOPEKA, KS 66612-1256  
 (913) 296-7413



## MEMBERS OF BOARD

CAMERON D. KNACKSTEDT, D.O., PRESIDENT, PHILLIPSBU  
 REX A. WRIGHT, D.C., VICE-PRESIDENT, TOPEKA  
 RICHARD A. UHLIG, D.O., SECRETARY, HERINGTON  
 F. CALVIN BIGLER, M.D., GARDEN CITY  
 HAROLD E. BRYAN, D.C., FORT SCOTT  
 EDWARD J. FITZGERALD, M.D., WICHITA  
 PAUL T. GREENE, JR., D.C., GREAT BEND  
 JOHN B. HIEBERT, M.D., TOPEKA  
 GLENN I. KERBS, DODGE CITY  
 GRACIELA A. MARION, EUDORA  
 GORDON E. MAXWELL, M.D., SALINA  
 TOM REHORN, MISSION  
 HAROLD J. SAUDER, D.P.M., INDEPENDENCE  
 DAVID WAXMAN, M.D., LENEXA  
 JOHN P. WHITE, D.O., PITTSBURG

TO: House Committee on Public Health & Welfare

FROM: Lawrence T. Buening, Jr., General Counsel  
 Kansas State Board of Healing Arts

DATE: January 27, 1988

RE: HB-2643

As was the case with my testimony on HB-2642, I am appearing before you today to provide information regarding the effect enactment of HB-2643 would have on the State Board of Healing Arts and to answer any questions you might have. The Board itself has not taken any position relative to the enactment of this particular piece of legislation.

Under current statutes, review and executive committees are required to report to the State Board of Healing Arts incidents involving the following health care providers licensed or registered by the Board: Medical and osteopathic doctors, doctors of chiropractic, doctors of podiatry and physical therapists. If HB-2643 is enacted, mandatory reporting would also apply to four additional groups presently regulated by the Board, these being physical therapy assistants, occupational therapists, occupational therapy assistants and respiratory therapists.

For your information, attached to this memorandum as Exhibits A and B are the two reporting forms presently being utilized by the Board for use by reporting entities to provide the mandatory information to the Board.

Regarding the changes made on pages 3 and 4 of the Bill from lines 114 through 127, I wish to advise that the Board is presently involved in a lawsuit in the District Court of Shawnee County, Kansas in which a plaintiff in a medical malpractice lawsuit has brought a Petition for a Writ of Mandamus seeking to have certain reports and records made available to her pursuant to the present provisions of K.S.A. 65-4915(d). As noted by legislative staff, this particular provision does conflict with statutes which require confidentiality as set forth in K.S.A. 65-2898a and K.S.A. 1987 Supp. 65-4925. Both of these statutes require that any information or reports received by the Board remain confidential unless submitted into evidence in a disciplinary proceeding. Under present K.S.A. 1987 Supp. 65-4915(d), these reports would become a matter of public record whenever the Board files a formal disciplinary proceeding against a licensee whether or not that information is ever submitted into evidence during the proceeding itself. A concern does exist that should K.S.A. 65-4915 not be amended as proposed that reporting entities would be

*Attn: #10  
 PH & W  
 1-27-88*



ouse Committee on  
Public Health & Welfare  
January 27, 1988  
Page 2

reluctant to fully disclose information and reports to the Board if at a later date these reports would become a matter of public knowledge.

Regarding the proposed amendment set forth on lines 158 through 162 of the Bill, attached please find Exhibit C which is a letter from Department of Health & Environment setting forth the present effect of the law and how it applies to private psychiatric hospitals. This letter explains the reason behind this particular amendment and the reason the Special Committee on Public Health & Welfare this summer recommended this proposed change.

Thank you very much for allowing me the opportunity to appear and I am available for whatever questions you might have.

LTB/sl

Attachments - Exhibits A, B & C

REPORT OF ADVERSE FINDINGS

Mail to: Disciplinary Counsel  
Kansas State Board of Healing Arts  
Landon State Office Building  
900 S.W. Jackson, Suite 553  
Topeka, Kansas 66612-1256

PLEASE READ CAREFULLY AND PRINT IN BLACK INK OR TYPE ALL INFORMATION.

This form has been prepared by the Kansas State Board of Healing Arts (KSBHA) to provide assistance to organizations required to submit reports to the Board in the following instances:

1. Medical care facilities reporting pursuant to K.S.A. 65-28,121 when privileges of a licensee of KSBHA have been adversely modified or voluntarily surrendered for reasons relating to professional competence.
2. Peer review committees of professional associations reporting pursuant to K.S.A. 65-4923(a)(1) when the committees have made an adverse finding relating to a health care provider licensed or registered by the KSBHA.
3. Executive committees and peer review committees of medical care facilities reporting pursuant to K.S.A. 65-4923(a)(2) when the committees have made an adverse finding relating to a health care provider licensed or registered by the KSBHA.

THE INFORMATION LISTED BELOW MUST BE PROVIDED WITHIN 30 DAYS OF THE DATE THE REPORTING OBLIGATION IS INCURRED. THIS INFORMATION IS NOT A SUBSTITUTE FOR AND MUST BE PROVIDED IN ADDITION TO THAT SUBMITTED ON THE CONFIDENTIAL QUARTERLY REPORTS REQUIRED TO BE FILED PURSUANT TO K.S.A. 65-4923(d).

Reporting Individual/Entity \_\_\_\_\_  
Address \_\_\_\_\_

KSBHA I.D. # for individual being reported \_\_\_\_\_ Individual Specialty  
Patient Care Class\* \_\_\_\_\_ or Professional Conduct  
Area\* \_\_\_\_\_ Patient Medical Record # \_\_\_\_\_ Date of incident \_\_\_\_\_

\* See back for instructions.

Provide location of incident (hospital, Dr. Office, etc.): \_\_\_\_\_

Provide brief description of incident which led to report (attach additional pages if necessary): \_\_\_\_\_

Identify title of individual/entity who conducted investigation: \_\_\_\_\_

Date of adverse finding: \_\_\_\_\_ Have sanctions or disciplinary actions been taken against individual being reported? \_\_\_\_\_ If yes, please describe: \_\_\_\_\_

DATE \_\_\_\_\_ NAME OF PERSON REPORTING \_\_\_\_\_  
TITLE \_\_\_\_\_  
PHONE NUMBER \_\_\_\_\_

## INSTRUCTIONS FOR COMPLETION

NOTICE: This form has been prepared by the Kansas State Board of Healing Arts for use in submitting reports required by K.S.A. 1986 Supp. 65-28, 122, 65-4923(a)(1) and 65-4923(a)(2). This report and the information contained herein shall be confidential, except as such may be utilized in a disciplinary proceeding. This form should be used only to report incidents involving the following health care providers: Medical and Osteopathic Doctors, Doctors of Chiropractic, Doctors of Podiatry and Physical Therapists.

If you have any questions about this form and when to submit a report to the Kansas State Board of Healing Arts, please contact the Board's General Counsel at (913) 296-7413.

If you have an adverse finding in Patient Care Class II or III, please complete the front of this form: date of incident, patient identification information, description of incident, action taken on incident with appropriate dates and license identification information. Use additional pages if necessary.

"Adverse finding" is any factual determination, opinion or recommendation made by an executive committee or professional practices peer review committee that a licensee or registrant of the KSBHA acted below the applicable standard of care which action had a reasonable probability of causing injury to a patient, or in a manner which may be grounds for disciplinary action by the board.

"Sanctions or disciplinary actions" include revocation, suspension, restriction, modification or limitation of practice privileges or membership or impose requirements for the individual to perform acts not generally required of persons with similar privileges.

### PATIENT CARE CLASSES:

I. Incident which has reasonable probability of causing danger to the patient but results in no detrimental effect. (Examples: fright, rash, minor contusions, minor lacerations, first degree burns, isolated incident of delay in or failure to respond to call, isolated incident of overutilization of drugs.)

II. A pattern of practice or isolated incident which both has a reasonable probability of causing danger to the patient(s) and results in temporary or minor detrimental effect. (Examples: repeated incidents of conduct in Patient Care Class I, second degree burns, reparable damage to organ or body part.)

III. Incident which results in gross and flagrant quality violations or any incident which results in significant morbidity. (Examples: course of inappropriate treatment, wrong procedure performed and/or unplanned removal of an organ or body part, any incident of abandonment, deafness, loss of eye, brain damage, quadraplegia, MI, CVC, cardiac/respiratory arrest.)

### PROFESSIONAL CONDUCT AREAS:

- A. Unethical/dishonest/dishonorable conduct
- B. Incorrect/inappropriate use of controlled substances
- C. Failure to provide informed consent
- D. Failure to maintain malpractice insurance
- E. Assigning inappropriate duties to others
- F. Impairment (includes mental and physical inability as well as chemical dependency)
- G. Conviction of a felony or Class A misdemeanor
- H. Misrepresentation to patient and/or professional credentials and/or education
- I. Other act which may be grounds for disciplinary action



## INSTRUCTIONS FOR COMPLETION

NOTICE: This form has been prepared by the Kansas State Board of Healing Arts for use by medical care facilities and other entities in submitting reports required once every three months in compliance with K.S.A. 1986 Supp. 65-4923(d). This report and the information contained herein shall be confidential, except as such may be utilized in a disciplinary proceeding.

This form should be used only to report incidents involving the following health care providers: Medical and Osteopathic Doctors, Doctors of Chiropractic, Doctors of Podiatry and Physical Therapists.

### Definitions of Terms:

"Reportable incident" - means an act by a health care provider which: (1) is or may be below the applicable standard of care and has a reasonable probability of causing injury to a patient; or (2) may be grounds for disciplinary action by the Kansas State Board of Healing Arts.

"Report of reportable incident: - any complaint or other information received by the chief of the medical staff, chief administrative officer or risk manager of the facility alleging an act as defined above. This includes all information of any knowledge of a reportable incident provided by individuals in compliance with K.S.A. 1986 Supp. 65-4923 and could also include information provided by medical malpractice petitions and screening panel requests and decisions.

"Knowledge" - means familiarity because of direct involvement or observation of the incident.

"Investigation" - starts when a problem has been identified or when any inquiry is commenced into a report of reportable incident.

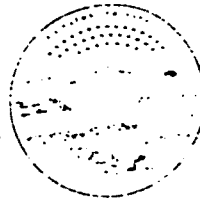
"Concluded" - for purposes of completing this form, concluded shall mean that a final decision, settlement or agreement has been reached on the reportable incident.

"Adverse finding" - any factual determination, opinion or recommendation made by an executive committee or professional practices peer review committee that a licensee or registrant of the Kansas State Board of Healing Arts acted below the applicable standard of care which action had a reasonable probability of causing injury to a patient, or in a manner which may be grounds for disciplinary action by the board.

"Action deemed necessary" - whenever a recommendation or opinion is made setting forth the steps felt to be appropriate to correct or prevent recurrence of the reportable incident.

"Final action taken" - any determination made against the individual who committed the reportable incident, including revocation, suspension, restriction, modification or limitation of practice privileges or membership or imposes requirements for the individual to perform acts not generally required of persons with similar privileges.





DEPARTMENT OF HEALTH AND ENVIRONMENT  
*Forbes Field*  
Topeka, Kansas 66620-0001  
Phone (913) 296-1500

Mike Hayden, Governor

296-1280

Stanley C. Grant, Ph.D., Secretary  
Gary K. Hulett, Ph.D., Under Secretary

27 August 1987

BRUCE NARAMORE ADMINISTRATIVE DIRECTOR  
THE BEHAVIORAL MEDICINE CENTER  
400 KATY STREET  
PARSONS KS 67357

RISK MANAGEMENT

Mr. Naramore, I am responding to your letter of August 24, 1987, regarding risk management plans and reporting requirements. During the 1987 Kansas legislative session, KSA 40-3401 was amended by House Bill 2418 to include psychiatric hospitals licensed under KSA 75-3303(b) and amendments thereto. KSA 40-3401(b) relates to the licensing of private psychiatric hospitals by the Kansas Department of Social and Rehabilitation Services (SRS).

KSA 65-4921 through 4930 is the statute related to risk management. Under this statute, medical care facilities are required to "establish and maintain an internal risk management program." Further, each medical care facility is required to submit to the Kansas Department of Health and Environment its plan for establishing and implementing an internal risk management program. Medical care facilities are defined with the same definition provided in KSA 65-425. This statute defines medical care facility as "a hospital, ambulatory surgical center, or recuperation center."

Since The Behavioral Medicine Center is a psychiatric hospital licensed by SRS and not a medical care facility, you are not required to submit a risk management plan as mandated by KSA 65-4922. You also would not be mandated to submit quarterly incident reports per KSA 65-4923(d) since the reportable incident would not have occurred in a medical care facility. However, if The Behavioral Medicine Center, as a health care provider, "has knowledge that a health care provider has committed an act which is or may be below the applicable standard of care or which is or may be grounds for disciplinary action pursuant to KSA 65-2836,"

BRUCE NARAMORE ADMINISTRATIVE DIRECTOR  
27 August 1987  
Page 2

then you must report such knowledge. Because the facility is not a medical care facility, the report would be made as described in KSA 65-4923(a)(1).

In conclusion, a private psychiatric hospital is not required to submit a risk management plan or quarterly incident reports to this department under the provisions of KSA 65-4921 through 4930. However, as included in the definition of health care provider (KSA 40-3401), you would be required to report any knowlege that another health care provider acted below the applicable standard of care. Since your hospital may need to review such potential incidents, it is recommended that a risk management program be developed at your facility.

I have enclosed a copy of KSA 65-4921 for your information. I hope I have answered your questions. If you have further questions, please feel free to contact me.

Greg L. Reser  
Medical Facilities Certification Administrator  
Bureau of Adult and Child Care Facilities

er

Enc.

cc: William Rein, SRS  
Larry Buening, Board of Healing Arts

0120 person or entity will not be admissible in evidence in any  
0121 judicial or administrative proceeding. After such an action is  
0122 filed, the reports and records dealing with the licensee and  
0123 related to the action shall be deemed public records and shall  
0124 not be admissible in evidence in any judicial or administrative  
0125 proceeding other than a disciplinary proceeding by the state  
0126 board of healing arts or other health care provider licensing or  
0127 disciplinary boards of this state.

----- be confidential and

Attn. # 11  
1-27-8  
C. J. Lee

0128 (e) A peer review committee or officer may report its findings  
0129 to another peer review committee or officer or to a board of  
0130 directors or an administrative officer of a health care provider  
0131 without waiver of the privilege provided by subsection (b) and  
0132 the records of all such committees or officers relating to such  
0133 report shall be privileged as provided by subsection (b).

0134 Sec. 2. K.S.A. 1987 Supp. 65-4921 is hereby amended to read  
0135 as follows: 65-4921. As used in K.S.A. 1986 1987 Supp. 65-4921  
0136 through 65-4930, and amendments thereto:

0137 (a) "Appropriate licensing agency" means the agency that  
0138 issued the license to the individual or health care provider who  
0139 is the subject of a report under this act.

0140 (b) "Department" means the department of health and envi-  
0141 ronment.

0142 (c) "Health care provider" has the meaning provided by  
0143 means: (1) Those persons and entities defined as a health care  
0144 provider under K.S.A. 40-3401 and amendments thereto; and (2)  
0145 a dentist licensed by the Kansas dental board, a dental hygienist  
0146 licensed by the Kansas dental board, a professional nurse li-  
0147 censed by the board of nursing, a practical nurse licensed by the  
0148 board of nursing, a mental health technician licensed by the  
0149 board of nursing, a physical therapist assistant certified by the  
0150 state board of healing arts, an occupational therapist registered  
0151 by the state board of healing arts, an occupational therapy  
0152 assistant registered by the state board of healing arts and a  
0153 respiratory therapist registered by the state board of healing  
0154 arts.

0155 (d) "License," "licensee" and "licensing" include compara-  
0156 ble terms which relate to regulation similar to licensure, such as

L. Beuning  
P. Lee  
Attn. # 11  
1-27-8



# KANSAS MEDICAL SOCIETY

1300 Topeka Avenue · Topeka, Kansas 66612 · (913) 235-2383

January 27, 1988

TO: House Public Health and Welfare Committee  
FROM: Kansas Medical Society  
SUBJECT: House Bill 2643, As Introduced

The Kansas Medical Society has a consistent record of supporting measures which will assist our members in their risk management efforts. For that reason we support the provisions of HB 2643.

For that same reason, we respectfully request that you amend the bill before taking action on it. On page four at line 128 you will find Section 1(e) which allows a peer review committee or officer to report its "findings" to another peer review group. Our legal advisors inform us that findings are normally considered to be findings of fact upon conclusion of an investigation. This means that peer review committees may not exchange information during the course of an inquiry or investigation.

We believe that the peer review function would be more effective if the hospital committees and local medical societies could exchange information more freely. To accomplish this we have drafted suggested language which is attached to this statement.

Thank you for your consideration.

CW:nb

Attachment

*J. Haughton*  
*Attm. - 12*  
*1-27-8*

0120 person or entity will not be admissible in evidence in any  
0121 judicial or administrative proceeding. After such an action is  
0122 filed, the reports and records dealing with the licensee and  
0123 related to the action shall be deemed public records and shall  
0124 not be admissible in evidence in any judicial or administrative  
0125 proceeding other than a disciplinary proceeding by the state  
0126 board of healing arts or other health care provider licensing or  
0127 disciplinary boards of this state.

0128 (c) A peer review committee or officer may report its findings  
0129 to another peer review committee or officer or to a board of  
0130 directors or an administrative officer of a health care provider  
0131 without waiver of the privilege provided by subsection (b) and  
0132 the records of all such committees or officers relating to such  
0133 report shall be privileged as provided by subsection (b).

0134 Sec. 2. K.S.A. 1987 Supp. 65-4921 is hereby amended to read  
0135 as follows: 65-4921. As used in K.S.A. 1986 1987 Supp. 65-4921  
0136 through 65-4930, and amendments thereto:

0137 (a) "Appropriate licensing agency" means the agency that  
0138 issued the license to the individual or health care provider who  
0139 is the subject of a report under this act.

0140 (b) "Department" means the department of health and envi-  
0141 ronment.

0142 (c) "Health care provider" has the meaning provided by  
0143 means: (1) Those persons and entities defined as a health care  
0144 provider under K.S.A. 40-3401 and amendments thereto; and (2)  
0145 a dentist licensed by the Kansas dental board, a dental hygienist  
0146 licensed by the Kansas dental board, a professional nurse li-  
0147 censed by the board of nursing, a practical nurse licensed by the  
0148 board of nursing, a mental health technician licensed by the  
0149 board of nursing, a physical therapist assistant certified by the  
0150 state board of healing arts, an occupational therapist registered  
0151 by the state board of healing arts, an occupational therapy  
0152 assistant registered by the state board of healing arts and a  
0153 respiratory therapist registered by the state board of healing  
0154 arts.

0155 (d) "License," "licensee" and "licensing" include compara-  
0156 ble terms which relate to regulation similar to licensure, such as

to and discuss  
activities, information and  
s





Kansas  
Psychiatric  
Society

1259 Pembroke Lane  
Topeka, KS 66604  
Telephone: (913) 232-5985

Officers 1986 - 1988  
Charles D. Glazzard, M.D.  
*President*  
The Kansas Institute  
555 E. Santa Fe  
Olathe, KS 66061

Donald R. Brada, M.D.  
*President-elect*  
308 West 20th  
Hutchinson, KS 67501

Ronald L. Martin, M.D.  
*Secretary*  
UKMC-Psychiatry  
39th & Rainbow  
Kansas City, KS 66103

Kathryn J. Zerbe, M.D.  
*Treasurer*  
The Menninger Foundation  
P.O. Box 829  
Topeka, KS 66601

George W. Getz, M.D.  
*Councillor #1, 1986-87*  
P.O. Box 89  
Larned, KS 67550

Robert L. Obourn, M.D.  
*Councillor #2, 1985-88*  
1150 S.W. Oakley  
Topeka, KS 66604

Eberhard G. Burdzyk, M.D.  
*Councillor #3, 1986-89*  
2700 West Sixth St.  
Topeka, KS 66606

George Dyck, M.D.  
*Representative*  
Prairie View, Inc.  
Box 467  
Newton, KS 67114

H. Ivor Jones, M.D.  
*Deputy Representative*  
8901 West 74th St.  
Shawnee Mission, KS 66204

Stuart D. Averill, M.D.  
*Past-President*  
P.O. Box 829  
Topeka, KS 66601

Jo Ann Klemmer  
*Executive Secretary*  
1259 Pembroke Lane  
Topeka, KS 66604  
(913) 232-5985

January 27, 1988

TO: House Public Health and Welfare Committee  
FROM: Kansas Psychiatric Society  
SUBJECT: House Bill 2643, As Introduced

The Kansas Psychiatric Society endorses those aspects of HB 2643 that pertain to the provision of psychiatric health care. Specifically, we support Section 2(e) which subjects psychiatric hospitals to the same mandatory reporting requirements as other medical care facilities.

We would, however, point out that there appears to be an inconsistency. Subsection (2)(E) of Section 1(a) defines "Health care provider group" to include an organized medical staff of a licensed medical care facility as defined by K.S.A. 65-425.

We therefore respectfully request an appropriate amendment to also define organized medical staffs of psychiatric hospitals licensed under K.S.A. 75-3307b as health care provider groups. This would bring us into compliance with the definition of "Peer review officer or committee" contained in subsection (4) of Section 1(a), thus allowing us to exercise peer review functions defined in subsection (3) of Section 1(a). This legal technicality would also assure the very important protections contained in Section 1(b).

Thank you for considering our concerns.

CW:nb

Attn # 13  
P.H.W.  
1-27-8

5

# Memorandum



**Donald A. Wilson**  
President

## TESTIMONY

ON

HOUSE BILL 2643

TO THE HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

JANUARY 27, 1988

The Kansas Hospital Association appreciates the opportunity to comment on House Bill 2643, which makes amendments to the health care provider risk management and reporting laws concerning health care providers. These laws were originally enacted in 1986 as part of a package of medical malpractice bills. The courts have now thrown part of that package into question, but these particular laws remain on the books. These statutes, K.S.A. 65-4921 through 65-4930, form perhaps the strictest statutory reporting scheme in the country. As staff has previously mentioned, this scheme is very elaborate and oftentimes confusing. The Kansas Hospital Association and other health care providers have spent much time, effort and resources in analyzing these statutes and educating members about specific requirements and implications.

One of the many challenges we have met with these statutes is that of creating a risk management and reporting system that is compatible with current quality assurance efforts already in the hospital and other requirements such as federal Medicare conditions of participation and standards of the Joint Commission on Accreditation of Health Care Organizations. Another is the difficulty of making those who staff hospitals feel comfortable with the idea of reporting on fellow health care providers. Despite these problems, Kansas hospitals are committed to making this program work as well as possible.

Much of House Bill 2643 is technical in nature. However, since different sections deal with different issues, we would like to comment on certain sections individually.

Section 1. The amendments made in line 114 to line 127 were recommended by the Interim Committee. They simply bring that portion of the statute in line with other sections. The amendments also provide the Board of Healing Arts with more guidance.

*Tom Beel*

*Attn: #14  
PAW  
1-27-8*

Section 2. This section would redefine "health care provider" and bring a number of other professions into the mandatory reporting system. As we mentioned before, this statutory scheme was only officially established in July 1986. Both health care providers and state agencies are still in the process of becoming accustomed to the rules and regulations adopted under that scheme and are still in the process of creating a framework that will allow all those involved in the application of these laws to work together. Hopefully, the addition of another substantial group of providers into this system will not disrupt this process. In any event, we have often recommended to hospitals that such providers be included in the hospital risk management system in order to make it as integrated as possible.

We have no problem with Section 2(e), which brings private psychiatric hospitals under the risk management requirements. Even though this is a technical problem, we have advised our members to follow the system and put a risk management plan into place.

Section 3. If this committee decides on the inclusion of additional health care providers in the law, it could strike the words "or a medical care facility agent or employee who is directly involved in delivery of health care services" on line 175 to 177 and the words "agent or employee" on line 179. Those individuals that would be brought into this law under Section 1 and 2 will now be specifically spelled out and there shouldn't be the need to keep these references to agents or employees.

Sections 4 and 5. These are technical sections.

Sections 6 and 7. These sections would create additional reporting requirements for licensed mental health technicians. We question the need for these sections, since licensed mental health technicians would be included as health care providers and, therefore, within the mandatory reporting system.

The Kansas Hospital Association appreciates the opportunity to comment on these proposed changes. We would be happy to try and answer any questions.

TLB:pac



# KSNA

the voice of Nursing in Kansas



FOR FURTHER INFORMATION CONTACT:

TERRI ROBERTS, J.D., R.N.  
EXECUTIVE DIRECTOR  
KANSAS STATE NURSES' ASSOCIATION  
820 QUINCY, SUITE 520  
TOPEKA, KANSAS 66612  
(913) 233-8638

H.B. 2643: TESTIMONY

Representative Littlejohn and members of the House Public Health and Welfare Committee, my name is Terri Roberts, J.D., R.N., I am a Registered Nurse representing the Kansas State Nurses' Association.

H.B. 2643 specifically names professional nurses licensed by the Board of Nursing in the new definition of Health Care Provider for mandatory reporting purposes.

KSNA has no objection to H.B. 2643. There are, however, several issues I'd like to bring to your attention related to mandatory reporting. In 1986 the Legislature passed H.B. 2661 which had provisions in it for mandatory reporting of those individuals covered by the Health Care Stabilization Fund. At that time only Registered Nurse Anesthetists (RNA's) were included in mandatory reporting requirements because they participate in the Health Care Stabilization Fund. Approximately one year later the implementation of the H.B. 2661 occurred, requiring Health Care Providers, as defined in that bill, to make quarterly reports to the appropriate agency of "Reportable Incidents". Although Registered Nurses were not specifically included in the 1986 Legislation, some hospitals have included reporting professional nurses/RN's to the Department of Health and Environment as part of their quarterly reports.

It is unclear from the interim study report that there has been an established problem in the area of reporting Registered Nurses who should be disciplined by the Board of Nursing. What H.B. 2643 does to Registered Nurse Licensees is that it adds an additional criteria for which they may be disciplined should they fail to report another Registered Nurse or health care provider who commits a reportable incident.

To the best of my knowledge, there has not been one licensee disciplined by the Board of Healing Arts or Board of Pharmacy for failure to report a reportable incident. There has, however, been problems in medical care facilities failing to file quarterly reports. A report by the KSBN Practice Specialist at the October KSBN Meeting indicated that only 65 percent of the hospitals filed their quarterly reports in the 3rd Quarter related to RNA Reportable Incidents.

The mandatory reporting statutes and process have been in place for a little over a year. As the Interim Study indicated, it is difficult to determine their effectiveness in disciplining licensees in such a short time frame.

One final item is that the House Governmental Organization Committee introduced H.B. 2588, a Mandatory Reporting bill (very similar to 2463) which is also what precipitated Proposal 29 for Interim Study. That bill was not mentioned in the Interim Study Report and we are uncertain if it will be discussed by Governmental Organizations in light of H.B. 2463.

Thank You. Kansas State Nurses' Association • 820 Quincy • Topeka, Kansas 66612 • (913) 233-8638  
Peggy Erickson, M.N., R.N.—President • Terri Roberts, J.D., R.N.—Executive Director

7  
1-28-88  
attm 15  
PHW

# Legislative Update

## MANDATORY REPORTING BILL FOR RN's and LPN's Proposed for 1988 Legislature Consideration

HE 2588 is a Mandatory Reporting Bill for RN's, LPN's, LMHT's, licensees. This bill will be carried over to the 1988 session. In the next eight months the KSNA Legislative Committee will be discussing the implications of this bill for nursing. Whether to support, support with amendments, or not to support the bill.

IN SUMMARY, this bill changes the reporting requirements for LMHT's and nurses. The reporting requirements would include mandating that RN's, LPN's, LMHT's, MD's, DO's, optometrists, pharmacists, podiatrists, PT's, HMO's, and medical care facilities licensed by the Department of Health and Environment would report an act by a health care provider which is or may be below the applicable standard of care. HB 2661 Medical Malpractice Tort Reform passed during the 1986 session mandates reporting of "Health Care Providers" and "Health Care Providers" was the definition used by the Health Care Stabilization Fund for its participants. RN's, LPN's, and LMHT's do not contribute to the Health Care Stabilization Fund (except for Registered Nurse Anesthetists). Therefore, in 1986 when the mandatory reporting requirements were passed nurses were not specifically named for reporting.

HB 2588 would change the definition of "Health Care Providers" for the purpose of reporting to include RN's and LPN's. There are sections of this bill which would tighten the current reporting requirements for the LMHT.

### QUESTIONS AND ANSWERS ABOUT THE PROPOSED MANDATORY REPORTING BILL?

**WILL RN'S AND LPN'S HAVE TO CONTRIBUTE TO THE HEALTH CARE STABILIZATION FUND?** No, the change in definition is for reporting of possible "reportable incidents. (line 0174)

**WHAT WILL RN'S AND LPN'S BE REPORTED FOR?** Any information which appears to show that a nurse has committed an act which the Kansas State Board of Nursing may discipline for under K.S.A. 65-1120 (line 0029-0030), (lines 0037-0038), (lines 0043-0044) K.S.A. 65-1120 (currently is):

**65-1120. Denial, revocation or suspension of licenses or certificates of qualification; costs.** (a) The board shall have the power to deny, revoke, limit or suspend any license or certificate of qualification to practice nursing as a registered professional nurse, as a licensed practical nurse or as an advanced registered nurse practitioner that is issued by the board or applied for in accordance with the provisions of this act in the event that the applicant or licensee is found after hearing to have been: (1) Guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing; (2) guilty of a felony if the board determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust, or of any offense involving moral turpitude; (3) unfit or incompetent by reason of negligent habits or other causes; (4) habitually intemperate in the use of alcohol or addicted to the use of habit-forming drugs; (5) mentally incompetent; (6) guilty of unprofessional conduct; or (7) has willfully or repeatedly violated any of the provisions of the Kansas nurse practice act or any rule and regulation adopted pursuant to that act.

NOTE: S.B. 340 that will also be considered by the 1988 Legislature repeals the current language of K.S.A. 65-1120 (above) and replaces it with several new criteria for disciplinary actions. It is important in evaluating H.B. 2588 that the proposed S.B. 340 disciplinary actions be considered. If S.B. 340 passes, the new disciplinary actions will be those that are referenced for reporting purposes in H.B. 2588.

Proposed S.B. 340 with the disciplinary language changes was printed in the March 1987 Kansas Nurse on page 5.

**WHO HAS TO REPORT?** Employers of Nurses (line 0028), Other Health Care Providers (line 0036), line 0135-defined), Medical Care Facility (line 0046-0047).

**WHO MAY REPORT?** Any Person (line 0041-0042).

**WHO IS THE REPORT MADE TO?** This bill provides that reports may be made to either the Kansas State Board of Nursing, the Professional Association or the Chief Administrator; or risk manager of the "Medical Care Facility" where the reportable incident occurred. See Lines 0193-0236 for the specific qualifications for reporting to the various entities.

Session of 1987

### HOUSE BILL No. 2588

By Committee on Governmental Organization

4-1

0017 AN ACT concerning health care providers regulated by the  
0018 board of nursing; relating to reports of acts which may be  
0019 grounds for disciplinary action; authorizing agreements with  
0020 certain professional societies or organizations for the per-  
0021 formance of functions and responsibilities with respect to the  
0022 regulation of impaired health care providers; amending K.S.A.  
0023 65-4216 and K.S.A. 1986 Supp. 65-4921, 65-4923, 65-4926 and  
0024 65-4930, and repealing the existing sections.

0025 *Be it enacted by the Legislature of the State of Kansas:*

0026 New Section 1. (a) Subject to the provisions of subsection (c)  
0027 of K.S.A. 1986 Supp. 65-4923, and amendments thereto:

0028 (1) Every employer of a nurse shall report under oath to the  
0029 board of nursing any information such employer has which  
0030 appears to show that a nurse has committed an act which may be

0031 a ground for disciplinary action pursuant to K.S.A. 65-1120, and  
0032 amendments thereto, or that the employer has taken disciplinary  
0033 action against a nurse for committing any such act or has ac-  
0034 cepted the resignation of a nurse in lieu of taking disciplinary  
0035 action therefor.

0036 (2) Every health care provider shall report under oath to the  
0037 board of nursing any information such health care provider has  
0038 which appears to show that a nurse has committed an act which  
0039 may be a ground for disciplinary action pursuant to K.S.A. 65-  
0040 1120, and amendments thereto.

0041 (3) Any person, other than those persons specified in provi-  
0042 sions (1) and (2), may report under oath to the board of nursing  
0043 any information such person has which appears to show that a  
0044 nurse has committed an act which may be a ground for discipli-  
0045 nary action pursuant to K.S.A. 65-1120, and amendments thereto.

0046 (b) Any medical care facility which fails to report within 30  
0047 days after the receipt of information required to be reported by  
0048 this section shall be reported by the board of nursing to the  
0049 secretary of health and environment and shall be subject, after  
0050 proper notice and an opportunity to be heard, to a civil fine  
0051 assessed by the board of nursing in an amount not exceeding



0052 \$1,000 per day for each day thereafter that the incident is  
0053 reported. All fines assessed and collected under this section shall  
0054 be remitted promptly to the state treasurer. Upon receipt thereof,  
0055 the state treasurer shall deposit the entire amount in the state  
0056 treasury and credit it to the state general fund.

0057 (c) As used in this section:

0058 (1) "Nurse" means any professional nurse and any practical  
0059 nurse, as such terms are defined in K.S.A. 65-1113, and amend-  
0060 ments thereto.

0061 (2) "Medical care facility" has the meaning provided by  
0062 K.S.A. 65-425, and amendments thereto.

0063 (3) "Health care provider" has the meaning provided by  
0064 K.S.A. 1986 Supp. 65-4921, and amendments thereto.

0065 Sec. 2. K.S.A. 65-4216 is hereby amended to read as follows:  
0066 65-4216. (a) Subject to the provisions of subsection (c) of K.S.A.  
0067 1986 Supp. 65-4923, and amendments thereto:

0068 (1) Every person employing employer of a mental health  
0069 technician and the chief administrative officer of any firm, cor-  
0070 poration, institution or association employing a mental health  
0071 technician, any of whom has reasonable cause to believe that a  
0072 mental health technician is guilty of any of the actions specified  
0073 in K.S.A. 65-4209, and amendments thereto, as a ground for  
0074 disciplinary action or any of whom has taken disciplinary action  
0075 therefor or has accepted the resignation of a mental health  
0076 technician in lieu of taking disciplinary action therefor, shall  
0077 immediately report the same, under oath, to the board of nursing  
0078 shall report under oath to the board of nursing any information  
0079 such employer has which appears to show that a mental health  
0080 technician has committed an act which may be a ground for  
0081 disciplinary action pursuant to K.S.A. 65-4209, and amendments  
0082 thereto, or that the employer has taken disciplinary action  
0083 against a mental health technician for committing any such act  
0084 or has accepted the resignation of a mental health technician in  
0085 lieu of taking disciplinary action therefor.

0086 (b) (2) Every person licensed to practice any branch of the  
0087 healing arts, every licensed social worker, every licensed pro-  
0088 fessional or practical nurse and every licensed mental health  
0089 technician, any of whom has reasonable cause to believe that a  
0090 mental health technician is guilty of any of the actions specified  
0091 in K.S.A. 65-4209, and amendments thereto, as a ground for  
0092 disciplinary action, shall report the same, under oath, to the  
0093 board of nursing health care provider shall report under oath to  
0094 the board of nursing any information such health care provider  
0095 has which appears to show that a mental health technician has  
0096 committed an act which may be a ground for disciplinary action  
0097 pursuant to K.S.A. 65-4209, and amendments thereto.

0098 (c) (3) Any person, other than those persons specified in  
0099 subsections (a) and (b) provisions (1) and (2), who has reasonable  
0100 cause to believe that a mental health technician is guilty of any of  
0101 the actions specified in K.S.A. 65-4209, and amendments thereto,  
0102 as a ground for disciplinary action, may report the same, under  
0103 oath, to the board of nursing may report under oath to the board  
0104 of nursing any information such person has which appears to  
0105 show that a mental health technician has committed an act  
0106 which may be a ground for disciplinary action pursuant to  
0107 K.S.A. 65-4209, and amendments thereto.

0108 (d) Any report made pursuant to this section shall contain the  
0109 name and address of the person making the report and of the  
0110 accused mental health technician, information regarding the  
0111 actions reported, and any other information which the person  
0112 making the report believes might be helpful in an investigation  
0113 of the case.

0114 (b) Any medical care facility which fails to report within 30  
0115 days after the receipt of information required to be reported by  
0116 this section shall be reported by the board of nursing to the

0117 secretary of health and environment and shall be subject, after  
0118 proper notice and an opportunity to be heard, to a civil fine  
0119 assessed by the board of nursing in an amount not exceed  
0120 \$1,000 per day for each day thereafter that the incident is r-  
0121 reported. All fines assessed and collected under this section shall  
0122 be remitted promptly to the state treasurer Upon receipt  
0123 thereof, the state treasurer shall deposit the entire amount in  
0124 the state treasury and credit it to the state general fund.

0125 (c) As used in this section:

0126 (1) "Medical care facility" has the meaning provided by  
0127 K.S.A. 65-425, and amendments thereto.

0128 (2) "Health care provider" has the meaning provided by  
0129 K.S.A. 1986 Supp. 65-4921, and amendments thereto.

0130 Sec. 3. K.S.A. 1986 Supp. 65-4921 is hereby amended to read  
0131 as follows: 65-4921. As used in K.S.A. 1986 Supp. 65-4921  
0132 through 65-4930, and amendments to such sections:

0133 (a) "Department" means the department of health and envi-  
0134 ronment.

0135 (b) "Health care provider" has the meaning provided by  
0136 K.S.A. 40-3401 and amendments thereto; means a person li-  
0137 censed to practice any branch of the healing arts by the state  
0138 board of healing arts, a person who holds a temporary permit to  
0139 practice any branch of the healing arts issued by the state board  
0140 of healing arts, a person engaged in a postgraduate training  
0141 program approved by the state board of healing arts, a medical  
0142 care facility licensed by the department of health and environ-  
0143 ment, a health maintenance organization issued a certificate of  
0144 authority by the commissioner of insurance, an optometrist  
0145 licensed by the board of examiners in optometry, a podiatrist  
0146 registered by the state board of healing arts, a pharmacist  
0147 licensed by the state board of pharmacy, a professional nurse  
0148 licensed by the board of nursing, a practical nurse licensed by  
0149 the board of nursing, a mental health technician licensed by the  
0150 board of nursing, a professional corporation organized pursuant  
0151 to the professional corporation law of Kansas by persons who  
0152 are authorized by such law to form such a corporation and who  
0153 are health care providers as defined by this subsection, a part-  
0154 nership of persons who are health care providers under this  
0155 subsection, a Kansas not-for-profit corporation organized for  
0156 the purpose of rendering professional services by persons who  
0157 are health care providers as defined by this subsection, a dentist  
0158 certified by the state board of healing arts to administer anes-  
0159 thetics under K.S.A. 65-2899 and amendments thereto, a physi-  
0160 cal therapist registered by the state board of healing arts, or a  
0161 mental health center or mental health clinic licensed by the  
0162 secretary of social and rehabilitation services, except that  
0163 health care provider does not include (1) any state institution  
0164 for the mentally retarded or (2) any state psychiatric hospital.

0165 (c) "License," "licensee" and "licensing" include compara-  
0166 ble terms which relate to regulation similar to licensure, such as  
0167 certification or registration.

0168 (d) "Medical care facility" has the meaning provided by  
0169 K.S.A. 65-425 and amendments thereto.

0170 (e) "State institution for the mentally retarded" has the  
0171 meaning provided by K.S.A. 40-3401 and amendments thereto.

0172 (f) "State psychiatric hospital" has the meaning provided by  
0173 K.S.A. 40-3401 and amendments thereto.

0174 (g) "Reportable incident" means an act by a health care  
0175 provider which is or may be below the applicable standard of  
0176 care.

0177 (h) "Risk manager" means the individual designated by a  
0178 medical care facility to administer its internal risk management  
0179 program and to receive reports of reportable incidents within the  
0180 facility.

0181 (i) "Secretary" means the secretary of health and envi-  
0182 ronment.

0183 Sec. 4. K.S.A. 1986 Supp. 65-4923 is hereby amended to read  
0184 as follows: 65-4923. (a) If a health care provider, or a medical care  
0185 facility agent or employee who is directly involved in the deliv-

Proposed H.B. 2588

(Continued)

0167 y of health care services, has knowledge that a health care  
0167 provider has committed an act which is or may be below the  
0188 applicable standard of care or which is or may be grounds for  
0189 disciplinary action pursuant to K.S.A. 65-1120, 65-2836, or 65-  
0190 4209, and amendments thereto to such sections, such health care  
0191 provider, agent or employee shall report such knowledge as  
0192 follows:

0193 (1) If the reportable incident did not occur in a medical care  
0194 facility, the report shall be made to the appropriate state or  
0195 county professional society or organization, which shall refer the  
0196 matter to a professional practices review committee duly consti-  
0197 tuted pursuant to the society's or organization's bylaws. The  
0198 committee shall investigate all such reports and take appropriate  
0199 action. The committee shall have the duty to report to the  
0200 appropriate state licensing agency any finding by the committee  
0201 that a health care provider acted below the applicable standard  
0202 of care so that the agency may take appropriate disciplinary  
0203 measures.

0204 (2) If the reportable incident occurred within a medical care  
0205 facility, the report shall be made to the chief of the medical staff,  
0206 chief administrative officer or risk manager of the facility. The  
0207 chief of the medical staff, chief administrative officer or risk  
0208 manager shall refer the report to the appropriate executive com-  
0209 mittee or professional practices peer review committee which is  
0210 duly constituted pursuant to the bylaws of the facility. The  
0211 committee shall investigate all such reports and take appropriate  
0212 action, including recommendation of a restriction of privileges at  
0213 the appropriate medical care facility. In making its investigation,  
0214 the committee may also consider treatment rendered by the  
0215 health care provider outside the facility. The committee shall  
0216 have the duty to report to the appropriate state licensing agency  
0217 any finding by the committee that a health care provider acted  
0218 below the applicable standard of care so that the agency may take  
0219 appropriate disciplinary measures.

0220 (3) If the health care provider involved in the reportable  
0221 incident is a medical care facility, the report shall be made to the  
0222 chief of the medical staff, chief administrative officer or risk  
0223 manager of the facility. The chief of the medical staff, chief  
0224 administrative officer or risk manager shall refer the report to the  
0225 appropriate executive committee which is duly constituted pur-  
0226 suant to the bylaws of the facility. The executive committee shall  
0227 investigate all such reports and take appropriate action. The  
0228 committee shall have the duty to report to the department of  
0229 health and environment any finding that the facility acted below  
0230 the applicable standard of care so that appropriate disciplinary  
0231 measures may be taken.

0232 (b) If a reportable incident is reported to a state agency which  
0233 licenses health care providers, the agency may investigate the  
0234 report or may refer the report to a review or executive committee  
0235 to which the report could have been made under subsection (a)  
0236 for investigation by such committee.

0237 (c) When a report is made under this section, the person  
0238 making the report shall not be required to report the reportable  
0239 incident pursuant to K.S.A. 65-28,122, 65-4216, or section 1, and  
0240 amendments thereto to such sections. When a report made under  
0241 this section is investigated pursuant to the procedure set forth  
0242 under this section, the person or entity to which the report is  
0243 made shall not be required to report the reportable incident  
0244 pursuant to K.S.A. 65-28,121 or, 65-28,122, 65-4216, or section 1,  
0245 and amendments thereto to such sections.

0246 (d) Each review and executive committee referred to in sub-  
0247 section (a) shall submit to the appropriate state licensing agency,  
0248 at least once every three months, a report summarizing the  
0249 reports received by the committee pursuant to this section. The  
0250 report shall include the number of reportable incidents reported,  
0251 whether an investigation was conducted and any action taken.

0252 (e) If a state agency that licenses health care providers de-  
0253 termines that a review or executive committee referred to in

0254 subsection (a) is not fulfilling its duties under this section, the  
0255 agency, upon notice and an opportunity to be heard, may rec  
0256 all reports pursuant to this section to be made directly to  
0257 agency.

0258 (f) The provisions of this section shall not apply to a health  
0259 care provider acting solely as a consultant or providing review at  
0260 the request of any person or party.

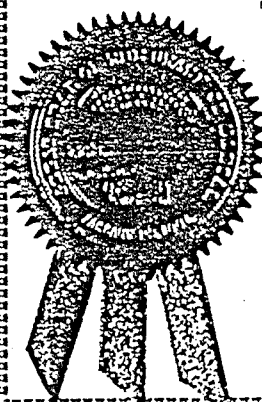
0261 Sec. 5. K.S.A. 1986 Supp. 65-4926 is hereby amended to read  
0262 as follows: 65-4926. Any person or entity which, in good faith,  
0263 reports or provides information or investigates any health care  
0264 provider as authorized by K.S.A. 1986 Supp. 65-4923 or 65-4924,  
0265 and amendments to such sections, shall not be liable in a civil  
0266 action for damages or other relief arising from the reporting,  
0267 providing of information or investigation except upon clear and  
0268 convincing evidence that the report or information was com-  
0269 pletely false, or that the investigation was based on false infor-  
0270 mation, and that the falsity was actually known to the person or  
0271 entity making the report, providing the information or conduct-  
0272 ing the investigation at the time thereof.

0273 Sec. 6. K.S.A. 1986 Supp. 65-4930 is hereby amended to read  
0274 as follows: 65-4930. The provisions of K.S.A. 1986 Supp. 65-4921  
0275 through 65-4929, and amendments to such sections, shall be  
0276 supplemental to K.S.A. 65-28,121, 65-28,122, 65-4216 and 65-  
0277 4909 and section 1, and amendments thereto to such sections,  
0278 and shall not be construed to repeal or modify those sections.

0279 Sec. 7. K.S.A. 65-4216 and K.S.A. 1986 Supp. 65-4921, 65-  
0280 4923, 65-4926 and 65-4930 are hereby repealed.

0281 Sec. 8. This act shall take effect and be in force from and  
0282 after its publication in the statute book.

STATE OF KANSAS  
PROCLAMATION  
BY THE  
GOVERNOR  
TO THE PEOPLE OF KANSAS, BEING:  
WHEREAS, nurses comprise the largest segment of our state's health care profes-  
sionals; and  
WHEREAS, nurses are continually working to upgrade the quality of care given to the  
people of our state; and  
WHEREAS, nurses are expanding their professional health care role by increased educa-  
tion, research, and practice; and  
WHEREAS, nurses are making their voices heard in our state's health care organiza-  
tions and are working to obtain needed legislation; and  
WHEREAS, the American Nurses' Association, Kansas State Nurses' Association and  
numerous other organizations have declared May a "National Nurses' Day";  
NOW, THEREFORE, I, WILHELM HAYDEN, GOVERNOR OF THE STATE OF KANSAS, do hereby proclaim  
Nurses' Day,  
NATIONAL NURSES' DAY  
in Kansas, and urge all residents of this state to join in this observance and participate  
in a demonstration of appreciation and support of the leadership being exercised by nurses  
to join continue health for all citizens.  
GIVEN Under the Great Seal of  
the State this 23rd day  
of April, A. D., 1987.  
BY THE GOVERNOR: *Wilhelm Hayden*  
Bill Dravin  
Secretary of State  
*John H. ...*  
Assistant Secretary of State



PRINTING COURTESY OF

LAWRENCE MEMORIAL HOSPITAL

# 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 Marvin Littlejohn, Chairman, and Members of the  
House Public Health and Welfare Committee

FROM: Dr. Lois R. Scibetta, Executive Administrator, State Board  
of Nursing

RE: HB 2643

DATE: January 27, 1988

Thank you Mr. Chairman for the opportunity to comment on HB2643. The Board of Nursing support this bill in principle.

The Bill broadens the definition of Health Care Provider to include all of the Board of Nursing licenses.

The bill also allows the Board to enter into an agreement with the professional association for the monitoring of impaired licenses, and finally, the bill amends the Mental Health Technician Act. (LMHTs currently are under mandatory reporting).

The Board of Nursing in February 1987 established an advisory committee to deal with the issue of Impaired Licensee Programs, and the funding of these programs. The Board's position was presented to the Governmental Organization Committee (House) last week.

The one area which was "grey" was the issue of the mandatory reporting of all impaired licenses. The KSNA believed that all cases should be handled confidentially, however, the Board of Nursing did not go that far. It was agreed by both parties (KSNA & KSNB) that those who voluntarily entered the Peer Assistance program, where there there was no public threat or evidence of impairment in the workplace could be handled by a joint review committee from the Board of Nursing and the Peer Assistance Program. These individuals would agree to sign a Stipulation of Facts document, and would be referred for diversion. (Peer Assistance).

LEGISLATION  
PUBLIC  
BOARD  
OF  
NURSING  
TRUST  
EDUCATION

Attm #16  
PH+U  
1-27-8

Representative Marvin Littlejohn, Chairman,  
and Members of the House Public Health and  
Welfare Committee  
January 27, 1988  
Page two

The Board in testimony before the Governmental Organization Committee  
presented a budget, etc. (independent of the Interim Report).

Thank you for this opportunity to comment on HB 2643.

I would be happy to respond to questions.