

Approved _____

Date

3-14-88
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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.~~/p.m. on March 2, 1988 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Representative Jeff Freeman
Chip Wheelen, Kansas Medical Society
Mr. Henry Fournier, State Board of Cosmetology
Tom Burgess, Affiliated Fitness Centers,
Mike Atkins, Tan Beautiful Centers, Hutchinson, Kansas
Ken Kern, Tanning Salon, Osage City, Kansas
Wendell Cowan, Salon Owner, Topeka, Kansas
Mary Ann Gabel, Behavioral Sciences Board
Rita Noll, Attorney General's Office
Bill Albott, Topeka, Kansas

Chair called meeting to order, noting hearings to be held on:
HB 3029, HB 3030, HB 3031, HB 3032.

Hearings began on HB 3029:

Representative Jeff Freeman offered hand-out, (Attachment No.1-A, 1-B). Attachment included Rules and Regulations, yellow pages from Topeka advertising tanning salons, informational material about tanning. He noted he had been asked to research the tanning industry and related complaints because of possible health concerns, and regulations on the state level. Studying this issue has raised concerns that need to be addressed. After having HB 3029 drafted, they realize there should be some changes, i.e., Page 2, line 79-80, perhaps wording should be "wash basins" rather than "showers"; fees less than \$200; fines \$500 rather than \$5000; offer language for bonding procedures. Perhaps HB 3029 isn't the total answer he said, but he would like committee to consider this issue. Perhaps it is a policy issue.

Chip Wheelen, Kansas Medical Society stated they had attempted to contact dermatologists in the area, but all were scheduled with patients and could not appear in person to give their views on HB 3029.

Mr. Henry Fournier, State Board of Cosmetology stated their Board agrees bonding a good idea, feel the fees are too high and should be more in line with cosmetology fees; feel their Board could take on this added responsibility with little increase in cost; a committee made up of Salon owners would be a good idea when setting regulations and fees. He answered questions, i.e., no we do not know how many salons there are in Kansas; have had very few complaints, those they have had are about salons that close without warning or notice to clients and move out in the middle of the night.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30 / a.m./p.m. on March 2, 1988

Hearings continued on HB 3029:--

Tom Burgess, Affiliated Fitness Centers agrees with the concept of HB 3029, however they oppose the bill in the present form. We have not experienced any problems with tanning salons in their Clubs, he said. If there are problems that pose health threats, they too would like to see those concerns taken care of. We do not feel legislation that is too burdensome is necessary. He suggested changes, i.e., suggested fees in original form of HB 3029 are too high. He answered questions, i.e., yes, we do have shower facilities in our businesses at present time; perhaps some regulations are needed; our organization represents 9 clubs, all fitness centers, and 6 or 7 of those have tanning facilities therein.

Mike Atkins, Tan Beautiful Centers had done extensive investigation and study of the tanning business. He is a Salon owner that has 12 tanning beds. He is certain this committee is interested in obtaining a good balance between protecting the public and overburdening the small business person. He isn't sure public protection is an issue in this case. He noted safety precautions given to clients, noted tanning sessions are very like a walk in the sunshine as far as exposure to rays, the tanning facility even reduces the amount of UV-B rays. They have documented information indicating Dermatologists' send patients to his Salon for skin treatment. They post a list of drugs that would cause reaction to those people tanning after taking certain medications or drugs; they are a low profit business and use part-time employees and do not have an extensive training program; he feels showers on premises not necessary; noted cost of tanning sessions; customer can turn off the bed themselves if they become too hot or uncomfortable. He answered questions, i.e., yes, our Company carries liability insurance; a person would have to be out in the sun 6 or 7 times longer than a tanning session to get the same amount of sun rays; yes, the Tanning Industry is a growing Industry.

Ken Kern, Tanning Salon owner in Osage City, Kansas and St. Joseph, Missouri, spoke to concerns in HB 3029. He is not aware of people moving out in the night, however, there are some in the business that can make a bad name for their Industry. He said they are very proud of their business and the way it is run, he approves of regulations, feels training personnel is necessary. There is a National Creditation Program that is excellent. There are good materials and information being put out constantly about the Tanning Industry. They would have no problem working with the Board of Cosmetology. Tanning Salons use an information card that asks if client is taking certain medications; there is a disclaimer on the card; restrictions are posted in each tanning booth. He answered numerous questions, i.e., he felt the National Creditation Program would willingly work with the State in a training program.

Wendell Cowan, a co-owner of a Salon, stated perhaps HB 3029 will act as a good guide to keep out of the Tanning Industry, those who would not act in a responsible manner. He noted however, if regulations are not needed, let's just don't pass a bill of this type simply because of a law in Ohio. He did agree some rules and regulations would be beneficial. He answered questions.

Hearings closed on HB 3029.

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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
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Hearings began on HB 3030:--

Mary Ann Gabel, Executive Secretary of Behavioral Sciences Regulatory Board offered hand-out, (Attachment No.2). She stated at legal counsel's suggestion this legislation was introduced at their Board's request to address concerns regarding disciplinary action. She cited specifics, i.e., Sections 1, line 24-27, Sec. 2, line 42, Sec. 4, lines 117-121 are amended to allow the Board to exercise more discretion in dealing with disciplinary action against licensees or registrants. Section 2 (f), lines 56-62, and Sec. 4 (a), (6) lines 135-140 amended to authorize Board to act on either a license, registration, or application for licensure or registration when another state has taken action. Further, add (g) in Sec. 1, following line 37, using similar language as contained in (f) in lines 56-62, reading as follows; "(g) has had a registration, license or certificate as a psychologist revoked, suspended or limited, or has had other disciplinary action taken, or an application for registration, license or certificate denied, by proper regulatory authority of another state, territory, District of Columbia, or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof." Further, Sec. 3 (d) line 101, to amend title of executive secretary to that of executive director; To eliminate language in Sec. 5, lines 144-145 that is unnecessary.

Hearings closed on HB 3030.

Hearings began on HB 3031:

Mary Ann Gabel gave hand-out, (Attachment No.3), and noted changes recommended, i.e., to amend Section 1 (b) (2) lines 32-33 to include persons who are providing services in the State of Kansas; Section 2, lines 58-59 to enable Board to exercise more discretion in dealing with disciplinary action against registrants; Sec. 2 (o), lines 106-112 to authorize Board to act on registration or application for registration when another state has taken action; Sec. 3, lines 113-160 to provide for equivalence between advisory commission for registration of professional counselors and advisory committee for registration of master level psychologists. She urged for favorable consideration.

Hearings closed on HB 3031.

Hearings began on HB 3032:

Rita Noll, Attorney General's office offered hand-out, (Attachment No. 4). She detailed reasons for rationale of HB 3032. Stated the Attorney General asks this committee to adopt amendments, i.e., Section 1 would prevent outside organizations from establishing a credentialing system and a code of ethics enabling unlicensed persons to practice psychology in this state. New Sub section (b) would provide persons regulated by the state through licensure or registration may do work of a psychological nature if the Kansas statutes and regulations governing that profession permit the person to do so. Subsection (f) to be eliminated. She answered numerous questions, i.e., right, you could not do psychological testing and evaluating psychological testing under this provision. When they call testing psychological, they have stepped beyond their authority; people outside say they are qualified, and we don't know whether they are or not.

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Bill Albott, licensed Psychologist spoke to HB 3032, noting basically what can happen with this exemption, (or loophole). Any group of people could set up an "Association" for a set membership fee, set a code of ethics, and you would qualify to administer psychological testing. He as a Psychologist, is concerned about this. It will reflect badly, and draw from the expertise and authority of the Psychologists' profession. He recommended to amend HB 3032, i.e., end of line 37 to duplicate lines 29,30,31, and insert them at the very end of New Section (b). He explained rationale, and answered questions. What counselors are doing now is trying to build upon their authority and expertise they do not possess in a manner that can be regulated or evaluated, he said. We are not trying to usurp Department of Education; counselors are regulated under Title B, and are regulated by the Department of Education. If teachers hold themselves out in private practice, they would be regulated under the Board of Behavioral Sciences.

John Peterson, Kansas Association of Professional Psychologists stated their Association supports HB 3032 and the proposed amendments offered, and also support the previous two bills heard, HB 3030, and HB 3031. He answered questions.

Hearing closed on HB 3032.

Chair drew attention to HB 2659, noting letter from Rep. Buehler as Chairman of sub-committee on this bill, (Attachment No.5). Rep. Buehler explained the committee report, and explained their recommendations. (Attachment No. 6) recorded as amendment on HB 2659 recommended by sub-committee. Rep. Buehler noted they directed attention to area of encouraging testing and counseling those charged with sex crimes and to provide testing and counseling for the victims. He stated they took into account all aspects of the bill, meeting several times. He appreciated all efforts of staff and other sub-committee members. They studied what type of charges should be involved, and rather than use term, "sex offenses", it was determined to address offenses occurring where body fluids were transferred. Amendments speak to these concerns. Rep. Harder, and Rep. Flottman both stated they agree the bill is a good compromise, and recommended committee consider their report.

(Attachment No. 6) was noted, short discussion ensued. Rep. Shallenburger made a motion to accept sub-committee report and to pass the amended version of HB 2659 favorably out of committee, seconded by Rep. Blumenthal. Discussion ensued, i.e., yes, testing is mandated upon conviction, but requires the court to try to influence perpetrator to submit to voluntary testing at the time he is charged. It includes any crime that involves exchange of body fluids, i.e., sex crimes, knife wounding; illegal IV drug charge, defining of "victim designated counselor". Vote taken, motion carried.

Chair drew attention to HB 2643. He invited Mr. Furse to explain the proposed amendments. (Attachment No.7). He detailed all amendments, line 49 changes urged by Psychiatric Association; line 128-130, changes urged by Medical Society; line 161, at request of Social Rehabilitation Services; changes in Section 3, indicates changes proposed by Hospital Association, however, Ks. Department of Health and Environment opposes the deletions in subsection (a).

Chair asked wishes of members, it was consensus of committee to go with the recommendations of Health and Environment (lines 175-180). Rep. Whiteman made motion to amend HB 2643 with amendments proposed in Attachment No. 7, with the exception of Section 3. Motion seconded by Rep. Hassler, motion carried.

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Discussion on Amendments for HB 2643 continued:

Rep. Shallenburger offered amendment on HB 2643, (Attachment No.8), and he explained it thoroughly. Basically this will provide language to match moneys dollar-for-dollar basis by the State or County Professional Society or Organization which is a party to the agreement. Rep. Shallenburger moved to amend HB 2643 as offered in Attachment No. 8, seconded by Rep. Neufeld. Discussion ensued. Vote taken, motion carried.

HB 2643 as a whole, Rep. Buehler moved to pass HB 2643 out favorably as amended, seconded by Rep. Gatlin. Vote taken, motion carried.

Meeting adjourned 3:17 p.m.

GUEST REGISTER

HOUSE

PUBLIC HEALTH AND WELFARE COMMITTEE

Date 3-2-58

NAME	ORGANIZATION	ADDRESS
Willis Abbott/PhD		909 SW 10, Topeka, KS
Allen Jordan	SRS	Topeka
Norma Davis		1104 Dixie Hutchinson, KS
Cindy Adams	interested individual	Box 2207 / Hutch Ks
Mube Adams	Tanning & Health Clubs	Box 507 Hutchinson KS 67501
Gary Chaney		1111 East 9th Hutchinson 67501
Conroe Patten		P.O. Box 2221 Hutchinson, Ks
Bob Corkins	K H A	Topeka
David Cuy	SRS/APAS	Topeka
Chip Wheeler	KMS	Topeka
John H. Hensley	KS Pap. Assn	Topeka
Kenneth Kern	HAPPY TAN	Topeka
W.F. Cowan, Jr	Tel. Area Trans. Inc	5623 SW 29th St Topeka 14
Steve Courson	Cosmetology Board	717 Ks Ave
Jeff Saville	JEFF FREEMAN	3108 Bryant
HEATH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	TOPEKA
Sheldon Allen	KD H & E	Topeka
Steve Pappi	KD H & E	Topeka

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Research Aids

Licenses and certificates of registration:

O-Jur3d: Bus & Occ § 113

Am-Jur2d: Barbers § 9

CASE NOTES AND OAG

1. A school of cosmetology, wherein beauty cultural work is performed upon the public for compensation by students enrolled therein, is engaged in the practice of cosmetology: 1940 OAG No. 2817.

2. Under the provisions of the minimum wage law of Ohio a wage rate may be fixed for females and/or minors who are enrolled as students in a school of cosmetology if such females and/or minors, in connection with their courses of study, perform beauty cultural work upon the public for which a charge is made by such school: 1940 OAG No. 2817.

3. When a person establishes a place of business within a barber shop, hotel lobby, or drug store for the manicuring of nails or other branch of cosmetology and such place of business so established is regularly patronized by women, such place of business is required by GC §§ 1082-1 to 1082-23 (RC § 4713.01 et seq), to obtain a beauty parlor license: 1934 OAG No. 2431.

§ 4713.21 Practice prohibited in room used for residential purposes.

No owner, manager, or person in charge of a beauty salon or school of cosmetology, shall permit any person to sleep in, or use for residential purposes, any room used wholly or in part, as a beauty salon or school of cosmetology; nor shall any person, firm, or corporation maintain, as an established place of business for the practice of any one or more of the occupations of a cosmetician, any room used wholly or in part, for sleeping or residential purposes.

HISTORY: GC § 1082-19; 115 v 330, § 19; Bureau of Code Revision, 10-1-53; 131 v 1187. Eff 10-15-65.

Cross-References to Related Sections

Penalty, RC § 4713.99.

Research Aids

Statutory regulation:

O-Jur3d: Bus & Occ § 115

Am-Jur2d: Barbers § 1

CASE NOTES AND OAG

1. (1973) Revised Code Chapter 4713. permits cosmetologists to perform beauty services for invalids in the homes of the invalids under regulation by the state board of cosmetology: OAG No. 73-107.

§ 4713.22 Fees in excess of statutory limits.

The state board of cosmetology, subject to the approval of the controlling board, may establish fees in excess of the amounts provided by sections 4713.01 to 4713.99, inclusive, of the Revised Code, provided that such fees do not exceed the amounts permitted by these sections by more than fifty per cent.

HISTORY: 130 v 1132. Eff 10-14-63.

§ 4713.25 Rules for tanning facilities; permit required to operate.

(A) As used in this section, "tanning facility" means a room or booth which houses equipment or beds used for tanning the human skin by the use of fluorescent sun lamps using ultraviolet or other artificial radiation.

(B) The state board of cosmetology, pursuant to Chapter 119. of the Revised Code, shall adopt rules:

(1) Requiring that tanning facilities be installed and operated in a manner that ensures the health and safety of consumers using them;

(2) Establishing the procedures governing applications for permits required by this section;

(3) Setting fees for permits and renewal which cover the costs incurred by the board in inspecting tanning facilities and enforcing the rules of the board, but which in any case shall not exceed one hundred dollars for a permit or renewal for each location of such facilities.

(C) The rules adopted under division (B)(1) of this section shall include but not be limited to the following:

(1) A rule establishing a maximum safe time of exposure to radiation and a maximum safe temperature at which sun lamps may be operated;

(2) A rule requiring that the consumer wear protective eyeglasses and that the consumer be supervised as to the length of time he uses a tanning facility;

(3) A rule requiring the operator to prohibit consumers from standing too close to sun lamps and to post signs warning consumers of the potential effects of radiation on persons taking certain medications and of the possible relationship of the radiation to skin cancer;

(4) A rule requiring the installation of protective shielding for sun lamps and handrails for consumers;

(5) A rule requiring that floors be dry during operation of lamps.

(D) No person shall own or operate any tanning facilities that are offered to the public for a fee or other compensation unless the person holds a valid permit issued by the board. The permit holder shall post the permit in a conspicuous place on any premises where the tanning facilities are located. A person shall obtain a separate permit for each of the premises owned or operated by that person.

(E) The board shall issue a permit to any person who files an application on a form prescribed by the board and pays the fee established by the board, if an initial inspection of the premises indicates that the premises and the tanning facilities are installed and will be operated in accordance with any rules adopted under division (B)(1) of this section.

A permit holder may renew a permit annually upon payment to the board of the annual renewal

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fee, except that the board may, after a hearing in accordance with Chapter 119. of the Revised Code, refuse to renew the permit of any owner or operator who has violated the rules of the board for the safe operation of tanning facilities.

(F) The board may appoint inspectors as needed who shall make periodic inspections of tanning facilities as specified by the board. The board, after a hearing in accordance with Chapter 119. of the Revised Code, may suspend any permit where the owner or operator fails to correct any unsafe conditions that exist in violation of the rules of the board or fails to cooperate in any inspection of tanning facilities by the inspector.

If any violation has resulted in a condition deemed by an inspector to create an immediate danger to the health and safety of any person using the tanning facilities, the inspector may suspend the permit without a prior hearing until the unsafe condition is corrected or until a hearing in accordance with Chapter 119. of the Revised Code is held and the board either upholds the suspension by the inspector or reinstates the permit.

HISTORY: 140 v S 159. Eff 6-13-84.

Cross-References to Related Sections
Penalty, RC § 4713.99.

Ohio Administrative Code

Permit application and renewal procedure for tanning facilities. OAC Chapter 4713-13.

Comparative Legislation

PA—CSA tit 63 § 520.1

Research Aids

Statutory regulation:

O-Jur3d: Bus & Occ §§ 113, 115

Am-Jur2d: Barbers § 1

§ 4713.99 Penalty.

Whoever violates section 4713.20, 4713.21, or 4713.25 of the Revised Code is guilty of a misdemeanor of the fourth degree.

HISTORY: Bureau of Code Revision, 10-1-53; 131 v 1187 (Eff 10-15-65); 136 v S 262 (Eff 6-18-76); 140 v S 159. Eff 6-13-84.

Cross-References to Related Sections

Penalty for misdemeanor, RC § 2929.21.

Research Aids

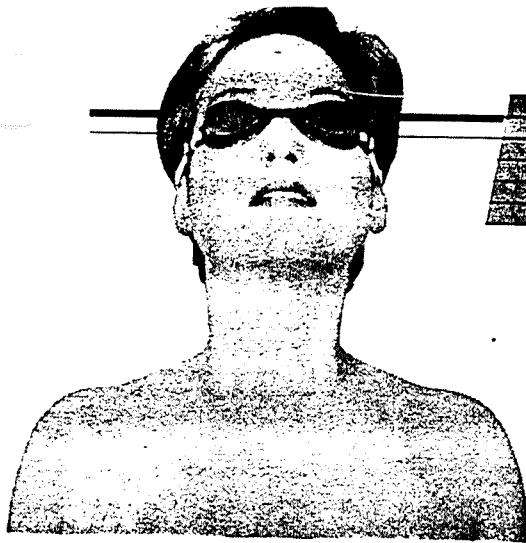
Statutory regulation:

O-Jur3d: Bus & Occ §§ 113, 115

C.J.S.: License § 69 et seq

West Key No. Reference

Licenses 40



Once-over

New shades of risk at tanning salons

Don't expose yourself to the dangers of the natural sun," reads an ad in the San Francisco Yellow Pages. "Tan safely and quickly in the comfort of a private room. Our FDA-approved suntanning equipment is comfortable and effective."

These sorts of claims from storefront tanning salons are seen with increasing frequency across the country.

The industry trade group, SAFE (for Suntanning Association for Education), estimates that the number of tanning salons jumped by at least 33 percent last year, to 10,000. By its reckoning, nearly two million pallid people paid an average of \$6 for sessions under the lamps.

The new wrinkle in promoting tanning salons is to tout equipment that reduces or eliminates "harmful" ultraviolet-B rays (UV-B), and steps up the output of "safe" ultraviolet-A (UV-A) rays. Both promote tanning, but UV-B has much more potential for causing sunburn.

Last year, the American Medical Association issued a report that warned of many possible dangers from sunlamps. "Many people, particularly younger people, who are doing this are going to have significant problems," says Dr. Paul Lazar, professor of clinical dermatology at Northwestern University Medical School and an author of the AMA report.

Dr. Lazar and other dermatologists are not reassured by tanning salons' switch to UV-A. Sunburn, they point out, is only one of several potential dangers.

According to the AMA report, UV-A, which penetrates more deeply into the skin, can produce the wrinkled, leathery look of prematurely aged skin.

Sunlight, and in particular the ultraviolet portion of the sun's rays, is a well-established risk factor for skin cancer. While UV-B is the most carcinogenic fraction of the spectrum, some studies indicate that UV-A may increase the cancer-producing potential of UV-B.

Then there's possible eye damage. Large doses of UV-A can harm the cornea and lens of the eye, and repeated exposure to either UV-A or UV-B may cause cataracts.

Dr. Lazar notes that UV-B provides a "biological marker." When you get a sunburn, he says, "you know you've had enough." But with UV-A, you don't have any warning signal.

All these potential

problems would seem to make tanning salons a likely object of strict regulations. But the U.S. Food and Drug Administration has been far from strict. The FDA requires timers, goggles to protect against eye damage, and warning labels affixed to the apparatus saying it can cause harm. But there's no limit on the intensity of the ultraviolet rays, nor do consumers have to be informed about the dose of radiation they're getting.

Some tanning salons have turned the weak FDA regulations to their own advantage by claiming that units meeting the rules are "FDA approved."

Such claims don't make FDA officials happy. "Our advice to people is not to use suntanning lamps," says one FDA official. But he also notes that there are no plans to outlaw the lamps or to impose stricter rules for their use.

Even the acting president of SAFE, Glenn Welt, isn't happy with the trend toward emphasizing UV-A radiation. "People go into the tanning-salon business with dollar signs under their eyes," he says. "They're not learning enough about the equipment. I say anything over 18 milliwatts of UV-A is looking for trouble. Some put out 50 to 80 milliwatts of UV-A. As far as I'm concerned, that's a dangerous level."

We thought we'd spotted a miracle spot-remover

Stains caused by food, dirt, and grease can ruin carpeting and clothing. Dry cleaning sometimes works, but it's expensive. Instead, you can try dabbing or spraying the area with a spot cleaner.

Of the many on the market, we were struck by one called *White Wizard*, which claims to clean anything from berry stains to blood. Its label modestly proclaims: "for use on virtually any stain." You get two 10-ounce tubs of the white gel for \$12 plus ship-

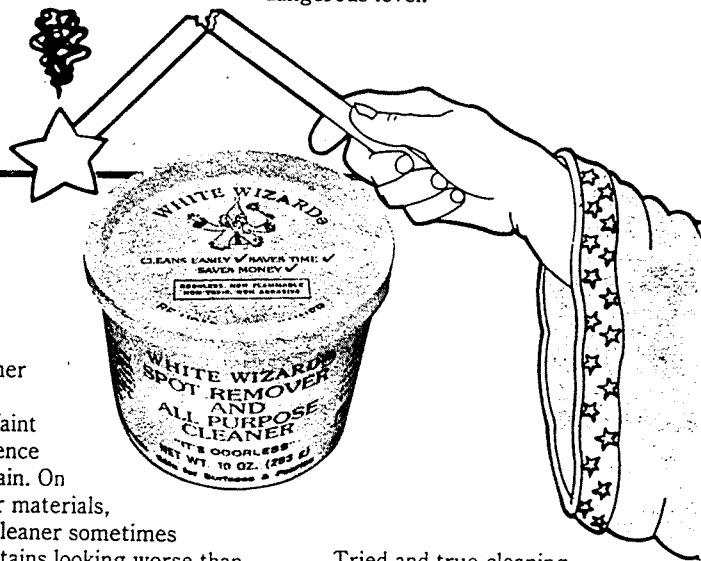
ping from Tools for Living, 400 S. Dean St., Englewood, N.J. 07631.

We tested the cleaner on swatches of polyester/cotton, nylon knit, heavy cotton canvas, crinkle-finish vinyl, and suede. All had been stained with mud, blood, grass, tea, and old motor oil.

We would hardly call the results miraculous. The *Wizard* cleaned vinyl easiest, removing every stain except the oil. But we did as well by just rubbing the stain with a damp rag. Even at its best,

the cleaner still left faint evidence of stain. On other materials, the cleaner sometimes left stains looking worse than before. It made most stains on the polyester/cotton swatches spread. Most of the stains we had applied to knit nylon, and the grass stain on cotton canvas, spread to two or three times their original size but didn't disappear.

Tried and true cleaning methods are hardly miraculous, but they are effective. Before a stain sets, try to wipe it off; after it sets, try brushing. If water won't harm the material, use cold water to dilute or wash out the stain.



Attmth 1-B
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PN*CW

Tanning Your Hide Inside, Clyde? It's Still Risky Business

Tanning salons that offer a year-round tan are a fairly recent phenomenon, appearing throughout the country in the past decade. Salon operators often install sunlamp equipment imported from Europe, which may give the places and those who use them a sense of prestige. Personal tanning equipment is also sold for home use.

Although the sun gives off both UVA and UVB, sunlamps produce mostly one or the other. Most of the inexpensive, older-style sunlamps for home use are UVB. The newer lamps used in salons are mainly UVA. Because UVA is less likely to burn, some operators claim their UVA lamps are "safe." Wrong. Even without a burn, UVA users risk skin cancer, premature skin aging, damage to blood vessels beneath the skin, and effects on the body's immune system. And if the proper protective goggles are not worn (closing the eyes is not

enough), there's increased risk of eye burns and cataracts.

UVA lamps—especially the new powered-up versions—are not "safer than sunlight" nor safer than ultraviolet B. They carry the same risks of skin burns, eye burns, cataracts, premature skin aging, and skin cancer as other sunlamps. But since UVA radiation goes deeper into and beneath the skin, its effects may not be as readily apparent.

Both UVA and UVB can damage blood vessels in sub-layers of the skin and can affect the body's immune system, with which it fights off infection.

With its responsibility to protect public health where radiation is concerned, FDA considers tanning—whether under the sun or under a sunlamp—risky business. The agency will not allow sunlamp manufacturers and salon operators to make exaggerated and untrue claims.

Health claims such as "improves immunity" and "treats disease" are not allowed. Nor are claims of safety permitted, such as "no harmful rays" and "no harmful effects." (Some persons will have eye or skin reactions to these tanning lamps.)

The one statement that sunlamp makers and salon operators can make is that their equipment is intended for "cosmetic tanning."

FDA standards for sunlamps and tanning equipment call for special goggles to protect the user's eyes; shielding to prevent touching the lamps; a timer that limits the amount of exposure (with a switch so the user can turn the lamps off at any time); and labeled instructions for use, along with warnings about the risks of skin cancer and other injuries.

Many imported sunlamps have been intercepted by FDA at ports of entry because they lacked the required safety features. Installed equipment has been seized and salons shut down for unsafe equipment and operation.

In addition, many state and local governments are developing their own regulations to be certain that tanning salons are properly informing and protecting customers. Through this combination of federal, state and local action, there should be more responsible operators and fewer equipment problems, even though the idea of a "safe tan" is a contradiction in terms. ■

How the Skin Tans ... and Burns

It is the ultraviolet radiation from the sun that causes tanning by stimulating melanocyte cells in the skin to release melanin, which is the skin's darkening protective pigment.

These ultraviolet rays are a combination of two types: UVA and UVB. Both UVA and UVB darken the skin, although UVB works more quickly and is most responsible for the burn that goes with tanning. With UVA, tanning and burning occur more slowly, but the rays penetrate more deeply. UVA is present in sunlight throughout the day, while the more intense and quicker burning UVB is mostly present at midday.

The reddening effect of sunburn is the skin's response to exposure to excessive sunlight. To shield itself against further exposure, the skin releases its melanin. The less melanin available—that is, the fairer the complexion—the less protection that skin will have. The accompanying chart shows skin types and their reactions.

Contrary to some beliefs, light clouds and fog do not protect against sunburn,

since ultraviolet rays come right through. Also, snow, sand and water increase the burn and tanning effect by reflecting the rays.

About 10 years ago, scientists discovered that the ozone layer—the part of the atmosphere that shields the Earth from the sun's rays—seemed to be losing some of its filtration effect, allowing too much ultraviolet through. Some say this may be affecting world weather and may

help account for increases in skin cancer. Manmade gaseous chemicals (chlorofluorocarbons) that rise up in huge quantities and dissolve the ozone are being blamed. Although some uses of chlorofluorocarbons (in spray-can propellants, for instance) have been banned in the United States, the gasses are still being produced and used throughout the world and are apparently still doing their damage. ■

Skin Type

Sunburn and Tanning History With Skin Type Descriptions

I	Always burns, never tans (Celtic)
II	Burns easily and tans minimally
III	Burns moderately; tans gradually to light brown (average Caucasian)
IV	Burns minimally; tans well to moderately brown (olive skin)
V	Rarely burns; tans profusely to dark (brown skin)
VI	Never burns; deeply pigmented; (black skin)



Out of the Bronzed Age

by Richard C. Thompson

The great American migration seeking fun in the sun is now under way. The stirrings began with the vernal equinox as the winter sun crossed the equator, heading north and increasing the hours of daylight. Over the next three months, from June through Labor Day, that migration will take people to lake shore and ocean front beaches and up into the thin, clear mountain air.

For many of these people, an important part of the fun will be "getting a healthy tan." But in recent years, more and more Americans have been getting the message that there's really nothing healthy about a "healthy tan." For the first time, there may be a generation growing up that understands the risks of tanning and burning and cancer and cataracts that can result from too much sun.

"Too much" can mean a severe sunburn and the temporary punishment of pain and peeling that goes with it. But to physicians, especially dermatologists, it also means a lifetime of exposure to the sun that puts the skin through a repeated cycle of injury, repair and, ultimately, permanent damage.

Skin damage from sunlight is cumulative; the harmful effects build up with each exposure, whether sunburn occurs or not. Effects can include wrinkling and premature aging of the skin and, in time, the almost leathery appearance of long-time desert dwellers and fishermen and others who have spent their lives in the great outdoors.

It is the ultraviolet radiation in sunlight that injures skin cells in exposed and unprotected areas of the body. Although the skin's own repair mechanism will immediately go to work, this does not mean it can undo all the damage. If the cycle is repeated day after day and year after year, the damage can become irreversible.

The most dreaded consequence of excessive exposure to the sun is skin cancer, usually associated with aging, although dermatologists report seeing it in a surprising number of adolescents and young adults. The most prevalent skin cancers are basal cell and squamous cell carcinomas.

Basal cell carcinomas appear on the head, neck, hands and trunk and are the type most often seen among Caucasians. They are slightly raised, slightly translucent nodules that, if untreated, may crust and bleed. They grow slowly and do not spread (metastasize) through the bloodstream to other parts of the body. In time, however, they can penetrate to underlying tissue and form swelling tumorous growths that crowd against and damage organs and tissue. Some 500,000 cases of basal cell carcinoma are expected in the United States this year.

It was a basal cell carcinoma that was removed last year from President Reagan's nose; from the First Lady's upper lip; from Vice President Bush's cheek; and from newsman Ted Koppel's eyelid.

Squamous cell carcinomas are reddish or pink raised nodules or warty growths, most often found on the lips, face, mouth, hands, ears and other areas exposed to the sun. They may bleed and form small ulcers, and they can eventually grow downward within the skin and metastasize to other organs and tissue, causing serious damage, even death. Some 100,000 cases of squamous cell carcinoma are reported each year in the United States.

Both basal cell and squamous cell carcinomas are almost always curable if detected early and removed by simple surgery or freezing with liquid nitrogen.

A more sinister kind of skin cancer is malignant melanoma. Although very rare, it is often fatal, but is more treatable with drugs and surgery than it once was. Some 20,000 cases will likely be reported this year.

Although the relationship between melanoma and the sun is not as clear as for basal cell and squamous cell carcinoma, some experts believe it can be traced to intense, short-term exposure—often before age 20—accompanied by blistering and painful sunburn. There is evidence that heredity may also be a strong determinant.

Back in 1930, about one person in 1,500 in the United States could expect to develop melanoma in his or her lifetime, according to the American Cancer Society. By 1980, that had risen to one person in 250, and by the year 2000, it (Continued on page 23)



*You may not be wearing
much at the beach, **but** at
least have on a sunscreen.*

(Continued from page 21)

could rise still further to one in 100. Tanning was not as fashionable in the thirties as it is today and, if the sun does trigger melanoma, one reason for the increase could be Americans' fascination with tan bodies.

The upper back, torso, head, neck and lower legs are the most common locations for melanomas, which often arise from an existing mole. The average person's body will have about two dozen moles, and these should be checked from time to time to be certain they are not changing in shape or color. If any are, see a doctor right away.

Compared to a harmless mole, a melanoma will develop spreading and uneven edges and show colors of black, brown and even red and blue. If not treated with drugs or surgery, a malignant melanoma can lead to death as it spreads through the body. With early diagnosis, survival rates for treated cases are considered good.

The summertime sun over the United States is most intense and its rays most hazardous from 11 a.m. to 3 p.m., and anyone who is out at that time should take sensible precautions. This includes using an effective sunscreen oil or lotion and—for the best protection—wearing a hat and clothing that covers the body.

The sun products industry in the United States has been growing at the

rate of 10 percent a year for the past five years, with more than half of these sun products sold from June to September.

One reason for this growth was FDA's proposed regulation in 1978 requiring that products containing a sunscreen or sun-blocking agent carry a "sun protection factor" (SPF) number that indicates to users the degree of protection the product provides.

The U.S. cosmetics industry quickly picked up on this and began using SPF's in their sunscreen promotions and advertising.

SPF numbers range from 2 to 15 and appear in bold numerals on sunscreen packages. The higher the number, the greater the protection. SPF-15, for example, means that the user can spend 15 hours in the sun and absorb the same amount of tanning rays that would be absorbed in one hour without a sunscreen. SPF-2 means the user can spend two hours in the sun and absorb the rays that would be absorbed in an hour without a screen.

Anyone seeking a tan should know his or her skin type (see accompanying chart) and then choose the sunscreen that offers the appropriate protection.

A system similar to SPF is being tried by the cosmetic industry with products such as soaps and shampoos. These include a styling gel to protect hair from

the bleaching effects of the sun and even a lotion to protect a balding scalp. Whether they work is debatable.

Some firms in the United States and abroad are attempting to go beyond SPF-15 and are getting into the SPF-20s.

Firms are also marketing "tan accelerator" lotions, creams and powders that supposedly pre-release melanin—the skin's darkening protective pigment—in the skin and allow faster tanning if used a day or so before going out in the sun. FDA is cautioning these firms that—because these substances act on and in the body—they may have to be classified as drugs and come under stricter regulation.

For all the benefits of sunscreens, sun-blocks and public awareness, the occurrence of skin cancer in the United States is increasing. Part of the reason may be found in a University of Florida study done last year.

More than 90 percent of those surveyed knew that too much sunlight causes skin cancer and aging. More than 80 percent understood the SPF system and knew that the right sunscreen would give protection. Yet, knowing all this, most still persisted in saying a "tan is healthy," and only half used sunscreens regularly. ■

*Richard C. Thompson is a member of
FDA's public affairs staff.*

Tanning Beds Are Not Without Drawbacks

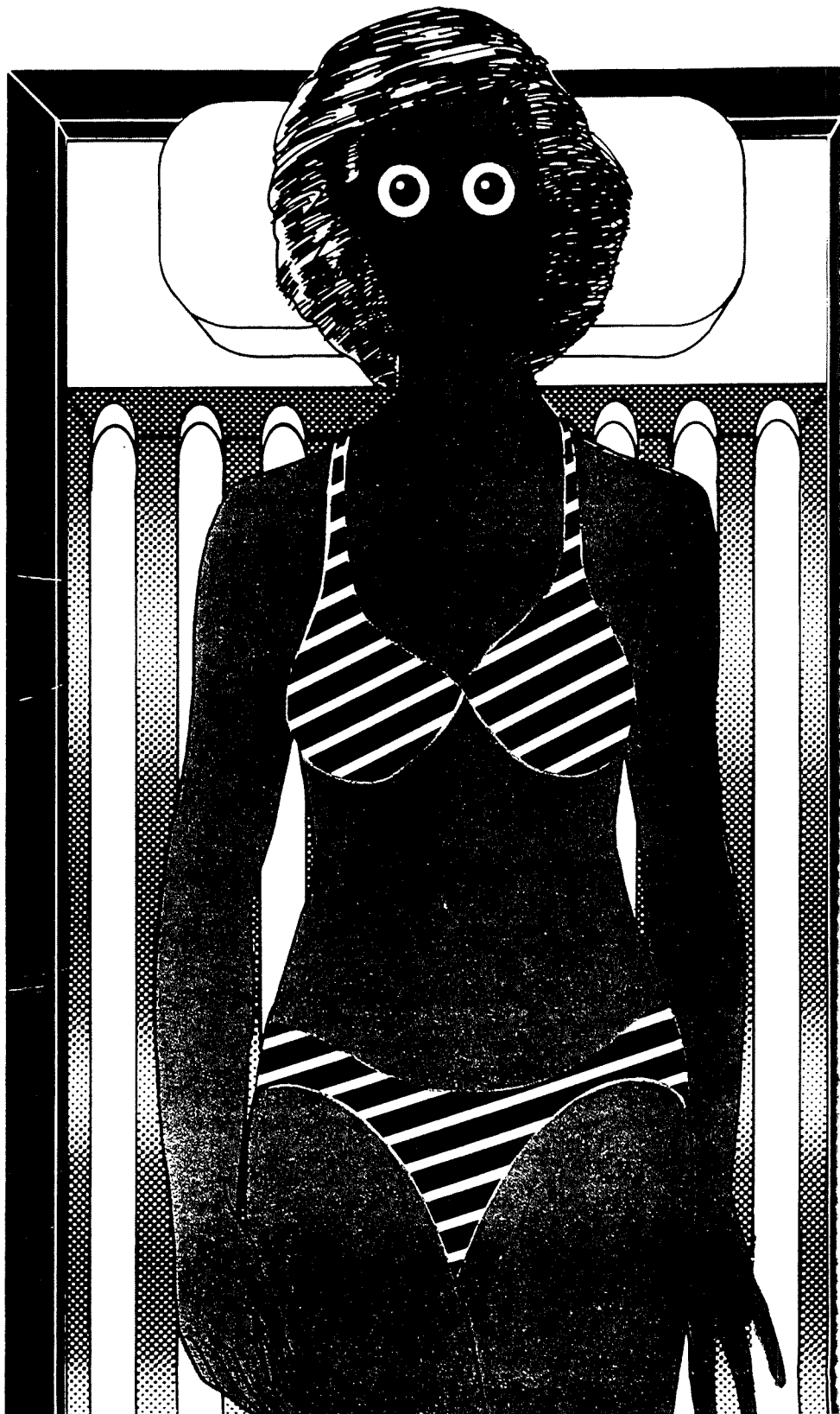
by Pam Chissler and
Richard Thompson

By this time, nearly everyone knows that too much exposure to the sun as well as to sunlamps can increase the risk of skin cancer and prematurely age the skin.

Now there's a new wrinkle in the tanning products market: tanning beds, used in health spas, beauty salons, and "tanning clinics." These, it's claimed, give you a "safe" year-round tan at your convenience. They look like beds, but the customer lies on a sheet of plastic instead of a mattress. Under the plastic is a row of sunlamps. Another row of lamps hangs overhead like an umbrella, so you can get tanned on both sides at once.

Even though tanning beds are the latest in tanning products, they're not the first to hit the market. They follow sunlamps for home use and tanning booths, both of which were designed to use lamps that emit mostly UVB radiation, the "old-fashioned" kind that's more likely to produce sunburn. The new beds are convenient, but are the claims of safety really true?

The assertions of safety for these beds are based on their use mostly of ultraviolet A (UVA) radiation, which is supposed to be less damaging to the skin than ultraviolet B (UVB), the kind used by conventional sunlamps. It's probably true, as the ads claim, that you can "tan without burning" when using UVA radiation, as long as the manufacturer's instructions are followed. But that doesn't mean it's harmless. Even though exposure to UVA may reduce the incidence of sunburning, UVA penetrates deeper than UVB and may increase the risk of other health hazards such as edema, vascular system damage, and skin damage (such as premature aging of the skin, resulting in a wrinkled, leathery look). It may also increase the chances of skin cancer. Each time the skin is forced to darken itself, it's damaged that much more. And, if the eyes aren't properly protected with goggles,



Too Much Hot Air

In many ways the problems that existed with tanning booths are now being seen with tanning beds.

Early last year a salon operator in Buffalo, N.Y., began an advertising campaign to promote the tanning beds he had installed in several locations in that city. Operating as "and a tan, inc.," he claimed that a session on his tanning beds would counteract stress and tension, purify the blood, lower blood pressure, improve breathing and blood flow to the lungs, improve immunity to infectious disease, and serve as a treatment for diabetes, acne, tetanus, rickets, spasmophilia (a motor

nerve disorder), and osteomalacia (softening of bones).

All this . . . "and a tan" too?

On repeated visits to the firm, FDA investigators from the Buffalo district office told the owner that his claim of health benefits from use of the beds had transformed them into medical devices. He promised to discontinue the claims and the kind of advertising he was using.

But an FDA employee, posing as a customer, was handed the promotional materials that were supposed to be discarded. Another employee was told that protective eyewear was not needed, that the tanning lamps would not harm her eyes unless she "looked directly at them for years."

Because the owner failed to keep his promise to curtail the promotional claims, the Buffalo investigators

placed the firm's 16 tanning beds, valued at \$100,000, under detention, charging that they were "misbranded medical devices." Since the beds could not be used, the salons were effectively shut down.

The owner and his financial backer quickly met with FDA officials. In return for release of the tanning beds, the owner agreed to destroy the misleading materials, make no further therapeutic claims or claims of safety, warn each customer of the need for protective eyewear and furnish such eyewear, make no claim that the firm or its beds had been approved by FDA, refund customer fees where requested for services not used, and post notices on FDA letterheads throughout the salons warning customers about his earlier misrepresentations and describing the agreement with FDA.

the risk of cataracts is increased.

There also may be a new risk introduced with UVA beds: complacency. Because UVA is unlikely to burn the skin, and because the ads for these products stress how "safe" they are, customers may be tempted not to use protective goggles, as they would with conventional sunlamps. This puts them at risk for cataracts. Beyond the issue of goggles, the "safe tan" ads mislead people into believing that they run no risk of cancer and skin aging. Thus, individuals who would normally avoid tanning may be induced to use tanning beds because of these ads.

Another concern with the new beds is the possibility that the original lamps that emit UVA may inadvertently be replaced with those that emit UVB. In this case the customer, using the exposure times specified by the manufacturer for the UVA lamps, could be severely burned.

Because of the possibility of long-term skin damage, both FDA and the American Academy of Dermatology advise the public to avoid tanning for cosmetic purposes. Still, whether to

seek a tan is a personal decision. Some people may decide that the cosmetic benefit outweighs the risks. To keep the risks as low as possible for these individuals—that is, to minimize the chances of acute hazards such as severe burns or eye damage—FDA imposes specific requirements on the manufacturers of sunlamp products. These include providing timers that shut off automatically, protective goggles, and adequate instructions for users.

Certain people are especially likely to experience adverse effects from ultraviolet radiation. You should *not* use sunlamps, either UVA or UVB, if:

- You sunburn easily and don't tan. If you don't tan in the sun, you probably won't tan using a sunlamp product.
- You get frequent cold sores. Ultraviolet radiation may cause them to appear.
- You are taking photosensitizing drugs. These drugs can increase your reaction to ultraviolet radiation. (Examples of photosensitizing drugs include some antibiotics, high blood pressure medications, diuretics, birth control pills, tranquilizers, and oral di-

abetes medications. Check with your pharmacist or physician.)

If you aren't in this high-risk group and decide to try tanning with a sunlamp product, here are some steps you can take to reduce some of the risks, such as burning or eye damage:

- Follow recommended instructions for use.
- WEAR PROTECTIVE GOGGLES.
- Don't overdo—don't expect an instant tan! Begin with shorter exposure times and gradually build up to longer ones.
- When using tanning facilities, be sure an attendant is nearby to help you in an emergency.
- Report any injuries from the use of these products to FDA.

But remember, the only way to avoid long-term risk—skin cancer and premature aging—is to avoid tanning altogether.

Pam Chissler is on the staff of the National Center for Devices and Radiological Health; Richard Thompson is a member of FDA's publications staff.

State Board of Cosmetology Columbus, Ohio 43266-0551



Richard F. Celeste
Governor

MUST BE DISPLAYED IN A CONSPICUOUS PLACE

TANNING RULES

(1) Who Must Comply With Rules

These rules which became effective the eighteenth day of January, 1985, ten days after filing in their final form with the Secretary of State and the director of legislative reference bureau as provided by Section 119.04 of the Revised Code, apply to all tanning facilities used by the public for a fee or other compensation. Any permit to operate issued by the Board of Cosmetology is valid only for the location and owner of the facility specified on the application, is not transferrable, and expires June thirtieth each year.

(2) Authority Defined

- (a) All tanning services, as defined in Administrative Rule 4713-13-01, offered to the public must be performed in a room or rooms duly approved and licensed by the State Board of Cosmetology as a tanning facility. (Rule 4713-13-01(D))
- (b) The "Board of Cosmetology" hereinafter referred to as the "Board" means those members appointed by the governor of the state in accordance with Chapter 4713 of the Revised Code who are vested with both statutory and discretionary authority. (Rule 4713-1-02)
- (c) All authorized agents of the State Board of Cosmetology shall have the power to enter and make reasonable inspection of any tanning facility during its regular business hours, for the purpose of determining whether or not the Board's rules are being observed. Persons duly authorized to make an inspection of tanning facilities shall prepare a report for such inspection on forms provided by the Board. Such report shall be signed by the inspector and by the owner of the tanning facility or by a person authorized to sign for the owner. A carbon copy of such inspection report shall be left with the owner or manager. (Rule 4713-13-02)

(3) License Must Be Conspicuously Displayed

- (a) Upon submission of the application and permit fee, and if the initial inspection of the premises indicates that the premises and tanning facilities are installed and will be operated in accordance with Section 4713.25 of the Revised Code and Chapter 4713-13 of the Administrative Code, the Board shall issue a permit to the owner or operator. (Rule 4713-13-03(E))
- (b) The permit shall be displayed in a conspicuous place on the premises of the tanning facility. (Rule 4713-13-03(G))

(4) Resident Tanning Parlors

Tanning parlor rooms in a residential building shall maintain a separate entrance which shall not open off the living quarters, and which shall not have any doors or openings leading to the living quarters. Entrance through garages or any other rooms shall not be permitted. (Rule 4713-13-10(A))

(5) Display of Sign

Every establishment licensed to provide tanning services shall display at its main entrance a sign of appropriate size which will be clearly visible from the street, stating "tanning parlor" or words having the same meaning, except in the case of a tanning parlor located within a department store or shopping center, such sign may be displayed at the entrance to the tanning parlor. (Rule 4713-13-09)

(6) Sanitation

- (a) No article such as eyewear or equipment such as tanning beds, etc., shall be used or offered for use by a patron unless that article has first been sanitized. (Rule 4713-13-07(A))
- (b) Walls, floors and fixtures shall be sanitized and kept clean at all times. Floor coverings shall be constructed of non-absorbent materials and shall be kept dry at all times. (Rule 4713-13-07(B))
- (c) Clean, sanitary towels shall be provided to all patrons using such tanning facilities. A closed, dustproof cabinet must be provided for clean towels and linen and a hamper or receptacle must be provided for all soiled towels and linen. (Rule 4713-13-07(C))

(7) Rest Rooms

All tanning facilities shall be equipped with toilet facilities and dressing rooms. Such toilet facilities shall include a water closet and hand washing sinks. Such toilet and dressing rooms shall be properly maintained at all times. (Rule 4713-13-07(D))

(8) Equipment

- (a) Each sunlamp product and ultraviolet lamp used in these facilities shall emit no measurable UVC radiation. (Rule 4713-13-05(B1))
- (b) Each sunlamp product shall incorporate a timing device with multiple timer settings adequate for the manufacturer's recommended exposure intervals to produce the expected results. (Rule 4713-13-05(B2))
- (c) Each sunlamp product shall incorporate a control on the product to enable the user to manually terminate radiation without pulling the electrical plug or coming in contact with the ultraviolet lamp. (Rule 4713-13-05(B4))
- (d) Each sunlamp product shall be accompanied by the number of sets of approved protective eyewear that is equal to the number of persons intended to use the facility simultaneously. (Rule 4713-13-05(B5))
- (e) Each ultraviolet lamp contained within the sunlamp unit shall be shielded so as to not come into contact with the user. A screen or transparent cover shall be used for this purpose. (Rule 4713-13-05(B6))
- (f) Each suntan unit (except beds) shall provide a handrail for the user to hold onto during the operation of the unit. Each unit shall have, clearly marked, the appropriate position the user is to assume during operation of unit. (Rule 4713-13-05(B7))
- (g) Each sunlamp product shall prominently display the following label: "Danger—ultraviolet radiation. Follow instructions carefully. Do not enter without protective eyewear." (Rule 4713-13-05(B8))
- (h) Each tanning facility shall be so equipped to dissipate heat that the interior temperature does not exceed one hundred degrees Fahrenheit or thirty-four degrees Centigrade. (Rule 4713-13-05(B9))

(9) Operation of Equipment

- (a) Each tanning facility shall have on hand at all times an operator adequately trained in the correct operation of the facility so as to be able to inform and assist the public in its proper use. (Rule 4713-13-06(A))
- (b) The operator shall require each patron to fill out a form specifying any and all prescription medicines they are presently taking. Said form shall be kept as a permanent record of the individual's attendance and progress. (Rule 4713-13-06(B1))
- (c) The operator shall inform each patron to use protective eyewear. (Rule 4713-13-06(B2))
- (d) The operator shall establish the time period for the initial exposure and each subsequent exposure until individual has reached their maximum exposure. (Rule 4713-13-06(B3))
- (e) The operator shall instruct the user in the proper operation of equipment, position of safety rail (if applicable) and location of manual termination switch in case of emergency. (Rule 4713-13-06(B4))
- (f) The operator shall monitor the facility to ensure that interior temperature does not exceed one hundred degrees Fahrenheit or thirty-four degrees Centigrade. (Rule 4713-13-06(B5))
- (g) The operator shall inspect the facility to ensure that the floors are dry prior to each patron's use thereof. (Rule 4713-13-06(B6))
- (h) The operator shall post signs warning consumers of the potential effects of radiation on persons taking medication and the possible relationship of radiation to skin cancer. (Rule 4713-13-06(B7))

cosmetology

CERTIFIED CHECK OR MONEY ORDER
ONLY - PERSONAL AND CORPORATE
CHECKS WILL BE RETURNED.

8 E. Long Street, Suite 1000 / Columbus, Ohio 43266-0551
(614) 466-3834

APPLICATION FOR TANNING FACILITY PERMIT

THIS APPLICATION SHOULD BE SUBMITTED AT LEAST TWO WEEKS PRIOR TO YOUR SCHEDULED OPENING DATE.

TANNING FACILITY NAME _____

ADDRESS _____

CITY _____ STATE _____ COUNTY _____ ZIP _____

() NEW FACILITY

Phone # _____

() CHANGE OF OWNERSHIP:

(Area Code)

WHEN A CHANGE OF OWNERSHIP OCCURS, THE NEW OWNER MUST COMPLY WITH ANY RULES WHICH HAVE
TAKEN EFFECT SINCE THE ESTABLISHMENT OF THAT TANNING FACILITY.

PREVIOUS FACILITY NAME _____

PREVIOUS FACILITY ID # _____

PREVIOUS FACILITY OWNER'S NAME _____

() CHANGE FACILITY NAME ONLY:

PREVIOUS FACILITY NAME _____

PREVIOUS FACILITY ID # _____

() CHANGING FACILITY LOCATION:

FACILITY ID # _____

PREVIOUS ADDRESS _____

FACILITY BEING LICENSED WILL BE OWNED BY:

() INDIVIDUAL:

NAME _____

HOME PHONE: _____ HOME ADDRESS _____

CITY _____ STATE _____ ZIP _____

() CORPORATION: NAME: _____

TELEPHONE: _____ ADDRESS _____

CITY _____ STATE _____ ZIP _____

() PARTNERSHIP: NAME _____

HOME PHONE: _____ HOME ADDRESS _____

CITY _____ STATE _____ ZIP _____

NAME _____

HOME PHONE: _____ HOME ADDRESS _____

CITY _____ STATE _____ ZIP _____

TANNING FACILITY IS () UVA BULBS
EQUIPPED WITH: () UVB BULBS
() UVA/UVB BULBS

TANNING FACILITY () STAND-UP BOOTH
UTILIZES: () LIE DOWN BED
() BOTH

DO YOU CURRENTLY OWN A TANNING FACILITY AT ANOTHER ADDRESS WHICH YOU WILL BE CLOSING?

() NO

FORMER FACILITY NAME _____

() YES

FACILITY ADDRESS _____

CITY _____ STATE _____ ZIP _____ COUNTY _____

FOR OFFICE USE ONLY

FACILITY IDENTIFICATION NUMBER _____

ID # _____ RECEIPT # _____ AMOUNT \$ _____

FDA CONSUMER

U.S. GOVERNMENT PRINTING OFFICE 1981-341-17412

DEPARTMENT OF HEALTH AND
HUMAN SERVICES
Public Health Service
Food and Drug Administration
5600 Fishers Lane
Rockville, Md. 20857
Office of Public Affairs

Some Potential Photosensitizing Agents

The following table lists agents that may increase sensitivity to ultraviolet light resulting in a phototoxic or photoallergic response:

Product Class	Generic or Chemical Name	Product Class	Generic or Chemical Name
Acne Treatment	Retinoic acid (tretinoin), Retin-A	Antipsoriatics (also in cosmetics)	coal tars and coal-tar derivatives, wood tars, and petroleum products
Antibacterials	sulfonamides (sulfamethoxazole, sulfisoxazole, trisulfapyrimidines), nalidixic acid, trimethoprim and sulfamethoxazole, halogenated salicylanilides, halogenated carbani- lides, halogenated phenols (antibacterials in deodorant bar soaps, antiseptics, cosmetics)	Diuretics (and antihypertensives)	chlorthalidone, furosemide, thiazides and combinations
Antibiotics	tetracycline and tetracycline derivatives: chlortetracycline, demeclocycline, doxycycline, methacycline, minocycline, oxytetracycline	Dyes	acridine, anthracene, eosin (lipstick), erythrosin, fluorescin, methyl violet, methylene blue, orange red, rose bengal, toluidine blue, trypanflavin, trypan blue
Anticonvulsants	carbamazepine, trimethadione	Estrogens and Progest- erones	mestranol and norethynodrel, diethylstilbestrol
Antidepressants	amitriptyline, desipramine, doxepin, imipramine, nortrip- tyline, protriptyline	Melanogenics (and in cosmetics)	furocoumarins (5-methoxy- psoralen, 8-methoxypsoralen, 4,5,8-trimethyl-psoralen)
Antidiabetic (glucose- lowering agents)	sulfonylureas (acetohexamide, chlorpropamide, tolazamide, tolbutamide)	Perfumes and Toilet Articles (essential oils in cosmetics)	Containing ethereal oils, oil of bergamot, oil of cedar, citron, lavender, lemon, lime, rose- mary, sandalwood
Antihistamines	diphenhydramine, prometha- zine, triprolidine, chlorphen- iramine	Tranquilizers	chlorprothixene, doxepin, haloperidol, loxapine, thi- othixene
Antimicrobials/Anti-in- fective agents	griseofulvin		phenothiazines: acetophena- zine, chlorpromazine, fluphen- azine, perphenazine, prochlor- perazine, thioridazine, trifluoperazine, trifluoproma- zine

Tailoring & Alterations
 686-0831
 Hillside 684-5462
 West 942-0333
 Sarah 4644 E 13 688-1480
 om Alterations 684-5828

TAILORING SINCE 1922
 ALTERATIONS -
 BREASTED COATS TO SINGLE
 as 262-4122

USTOM TAILORS
 Custom Tailored Suits
 Expert Alterations
 Mon - Sat 10:00 - 5:00
 838-0981

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ARD CUSTOM TAILOR
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 E 2 681-1743

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 gilas 686-6721

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 INC
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 681-3382

NDUSTRIAL PUMPING &
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For EXT 249

" & Then 800 358-3079

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VECA 1950 W. 13

TANKS-AUXILIARY-FUEL-See Automobile
 Parts & Supplies-New; Automobile
 Parts & Supplies-Wholesale &
 Manufacturers; Tanks-Fiber
 Glass,Plastics, Etc.; Truck Equipment &
 Parts

Tanks-Fiber Glass,Plastics,Etc.
 Lustercraft Plastics Inc
 1818 S Meridian 942-8451

Tanks-Metal
FAUBION TANK & EQUIPMENT CO
 All Sizes-Kinds-Types-Tanks
 302 S Lincoln
 Raymore Mo 816 331-4510

FLUID KINETICS CORP WINFIELD DIVISION
ASME CODE
PRESSURE VESSELS
 Rt 4 Winfield 221-2343

HCS PETROLEUM EQUIPMENT INC
 2301 W 29 North 838-7341
 McDonald Tank & Equipment
 620 Morton Great Bend Ks
 Wichita Ks Tel No 265-9331
 832-0624

Plasti-Steel Inc 1999 N Amidon 832-0624
RAY'S PETROLEUM EQUIPMENT
 Sales-Service-Dist State Wide
 1355 S Young 942-4288

SPECIALTY FABRICATION INC
 STAINLESS • ALUMINUM
 CARBON STEEL
 ROUND & RECTANGULAR TANKS
 1517 N Santa Fe 264-0603

WICHITA STEEL FABRICATORS INC
 WELDED METAL TANKS
 Carbon Steel or Stainless Steel
 Fuel - Pressure - Mixing
 Stacks - Bins - Ducts - U.L.
 Truck Mounted Tanks
 Steel Products Fabricated According to
 Specifications Submitted
 3400 N Broadway 838-3301

Tanks-Repairing
 Vim Trailer Mfg Inc 2811 N Ohio 838-4233

TANKS-SEPTIC-See Septic Tanks

Tanners
 Andersen Taxidermy
 1143 N Santa Fe 262-1751
 Dale's Taxidermy 2734 Conamore 686-0547
 Parsons Taxidermy
 215 W Market Derby Ks 788-3304
 Tison Taxidermy 1500 Denver 744-0636
 Weniger Taxidermy
 1107 Dearborn Augusta 775-3436

Tanning Salons
A TOUCH OF CLASS 2321 Amidon 838-3811
 A Touch Of Tan 2312 W Pawnee 942-0140
 Acapulco Inc 105 Plaza Ln 777-4281
 All Seasons Tanning Salons
 East 8121 E Central 686-7107
 West 7011 W Central 942-1041
 Array Of Sun 412 State 775-1131
B-TAN 8500 W 13 722-4600
 *FOR MORE INFORMATION
 See Advertisement This Page
 Body Bronze Tanning Studio
 Maple Ridge Center 945-9186

listings of this classification are continued on next page

Now, more than ever,
 it is important for your ad to
 stand out in *The One and Only*
 Southwestern Bell Yellow Pages.
 Because smart shoppers shop
 the Yellow Pages before they
 start out in their cars.

g Salons-(Cont'd)
ORNIA GOLD TANNING SOLARIUM
 MEMBERSHIP
 UNURED
 INTMENTS AVAILABLE
 RESSION FREE
 MASTERCARD
 COVER
 NEMENT CENTRAL LOCATION

California Gold
 BORNIA GOLD TANNING
 ARIUM 1042 N Waco 262-5822
 in Sun Tanning Center 682-7777

Y CREEK SUNTAN
 KLAFSUN BEDS
 WOLFF SYSTEM LAMPS
 a faster, deeper golden tan
 LK IN OR CALL; APPOINTMENTS
 NOT NECESSARY
 WITH OR WITHOUT MEMBERSHIP
 MEMBERSHIP ON PACKAGE SESSIONS
 MASTERCARD
 7 DAYS A WEEK
 ATED IN CHERRY CREEK SHOPPING CTR.
 681-3235
 1625 S Rock Rd

SUNTAN
 KLAFSUN BROS WITH
 WOLFF SYSTEM LAMPS
 WHIRLPOOL - SHOWERS
 STEAM ROOM
 MEMBERSHIP - SESSION PACKAGES
 OR SINGLE SESSIONS
 NO NEED FOR APPOINTMENTS
 WALK INS WELCOME
 VISA MASTERCARD ACCEPTED
 788-5521
 K-15 Plaza
 Derby

CONTROL CENTER
 N.West 945-9227

THE
 "The Electric Beach"
 Featuring Klassun Beds
 W Douglas 265-6907

Tan Glow Tanning Centers
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BEHAVIORAL SCIENCES REGULATORY BOARD

TESTIMONY PRESENTED TO THE HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE ON

H.B. 3030

March 2, 1988

MR. CHAIRMAN AND COMMITTEE MEMBERS:

I am Mary Ann Gabel, Executive Secretary of the Behavioral Sciences Regulatory Board, appearing before you today on behalf of the board and in support of S.B. 3030.

At legal counsel's suggestion, this legislation was introduced at the board's request to address the concerns regarding disciplinary action.

Sections 1 (lines 24-27), 2 (line 42), and 4 (lines 117-121) are amended to enable the board to exercise more discretion in dealing with disciplinary action against its licensees or registrants. The statute now provides for either suspension or revocation of licensure or registration. These amendments enable the board to take action on a license or registration without having to suspend or revoke same.

Other professions have similar language in their statutes concerning the effect of a finding of prohibited conduct:

- pharmacist. K.S.A. 1987 Supp. 65-1627 (revoke, suspend, deny renewal)
- dentist. K.S.A. 1987 Supp. 65-1436 (refuse to issue, revoke or suspend)
- nurse. K.S.A. 65-1120 (deny, revoke, limit, or suspend)
- embalmer. K.S.A. 65-1711a (deny, revoke, suspend, refuse to renew)

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--podiatrist. K.S.A. 65-2006 (revoke, suspend, limit)

--healing arts, M.D., chiropractor, osteopath. K.S.A. 1986 65-2836
(revoke, suspend, limit, publicly or privately censure)

--physical therapist. K.S.A. 1987 Supp. 65-2919 (deny, suspend, revoke)

--mental health technician. K.S.A. 65-4209 (withhold, deny, revoke,
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renew, suspend, revoke)

--respiratory therapist. K.S.A. 1986 Supp. 65-5510 (deny, refuse to
renew, suspend, revoke)

Section 2(f) (lines 56-62), and 4(a)(6) (lines 135-140) are amended to
authorize the board to act on either a license, registration, or application
for licensure or registration when another state has taken action.

Due to an oversight on my part, I failed to request a statutory amendment
in K.S.A. 1987 Supp. 74-5324 that would enable the board to act on a license
of a psychologist when another state has taken action. I request that this
oversight be corrected by adding a (g) in Sec. 1 following line 37, and using
similar language as contained in (f) in lines 56-62. The amendment to this
would read as follows:

"(g) has had a registration, license or certificate as a psychologist
revoked, suspended or limited, or has had other disciplinary action
taken, or an application for registration, license or certificate denied,
by the proper regulatory authority of another state, territory, District
of Columbia or another country, a certified copy of the record of the ac-
tion of the other jurisdiction being conclusive evidence thereof."

Similar language can be found in the Board of Healing Arts' statutes governing the practice of medicine and podiatry.

Section 3(d) (line 101), amends the title of the executive secretary to that of executive director. The duties and responsibilities of this position have been significantly expanded by the enactment of the professional counselor and the master level psychology registration acts which include an advisory commission and advisory committee.

The board is requesting this amendment to better reflect the scope of responsibility of this position.

Section 5 (lines 144-145) repeals K.S.A. 74-5330 as the statute requires the chair to fix the time and place of a hearing to be not less than 30 or more than 45 days after the petition is presented. It is legal counsel's opinion that this statute is not needed as the Kansas Administrative Procedures Act (KAPA) establishes procedure. In addition, this statute places too tight of a time line on the board to prepare for a disciplinary hearing.

The board respectfully requests that the requested amendment be adopted and that the committee recommend this legislation for passage in the House.

Thank you for permitting me to appear before you today. I will be happy to answer any questions you may have.

JOHN PREBLE, *Chairperson*
MARY ANN GABEL, *Executive Secretary*



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BEHAVIORAL SCIENCES REGULATORY BOARD

TESTIMONY PRESENTED TO THE HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE ON

H.B. 3031

March 2, 1988

MR. CHAIRMAN AND COMMITTEE MEMBERS:

I am Mary Ann Gabel, Executive Secretary of the Behavioral Sciences Regulatory Board, appearing before you today on behalf of the board and in support of H.B. 3031.

This legislation was introduced at the board's request, to: (1) handle residency requirements; (2) provide for substantial equivalence between the advisory commission for the registration of professional counselors and the advisory committee for the registration of master level psychologists; and (3) address the board's concerns regarding administrative disciplinary action.

Section 1(b)(2) (lines 32-33) amends the residency requirements for registration as a professional counselor to include persons who are providing services in the State of Kansas. The statute now prohibits persons who are not residents of, or who are not in the process of establishing residency from becoming registered.

This amendment permits persons who are currently working in Kansas but who reside out of state (i.e., Missouri, Oklahoma, Nebraska and Colorado) to become registered as a professional counselor.

*Attn. # 3
3-2-1988
PH&W.*

Section 2 (lines 58-59) is amended to enable the board to exercise more discretion in dealing with disciplinary action against its registrants. The statute provides for either suspension or revocation of registration. This amendment enables the board to take action against a registration without having to suspend or revoke same.

Other professions have similar language in their statutes concerning the effect of a finding of prohibited conduct:

- pharmacist. K.S.A. 1987 Supp. 65-1627 (revoke, suspend, deny renewal)
- dentist. K.S.A. 1987 Supp. 65-1436 (refuse to issue, revoke or suspend)
- nurse. K.S.A. 65-1120 (deny, revoke, limit, or suspend)
- embalmer. K.S.A. 65-1711a (deny, revoke, suspend, refuse to renew)
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- occupational therapist. K.S.A. 1987 Supp. 65-5410 (deny, refuse to renew, suspend, revoke)
- respiratory therapist. K.S.A. 1987 Supp. 65-5510 (deny, refuse to renew, suspend, revoke)

Section 2(o) (lines 106-112) is amended to authorize the board to act on a registration or application for registration when another state has taken action.

Similar language can be found in the Board of Healing Arts' statutes governing the practice of medicine and podiatry.

Section 3 (lines 113-160), amendments are intended to provide for substantial equivalence between the advisory commission for the registration of professional counselors and the advisory committee for the registration of master level psychologists as defined in K.S.A. 1987 Supp. 74-5368.

The professional counselor's advisory commission is functioning the same as the RMLP advisory committee and should be compensated accordingly, as well as have the same mission or purpose.

The board respectfully requests that these proposed amendments be approved.

Thank you for permitting me to appear before you today. I will be happy to answer any questions you may have.



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HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

Testimony on House Bill No. 3032

Offered by Rita L. Noll
Assistant Attorney General
March 2, 1988

I am Rita Noll, an Assistant Attorney General. As part of duties, I serve as legal counsel to the Behavioral Sciences Regulatory Board. However, I appear before you today on behalf of the Attorney General.

The Attorney General requested this bill be introduced to amend K.S.A. 1987 Supp. 74-5344 of the Licensure of Psychologists Act. The purpose of House Bill No. 3032 is to close an exception to the act which allows unqualified, unlicensed persons to practice psychology in this state.

The Licensure of Psychologists Act provides that it is unlawful to represent oneself as a psychologist or to practice psychology without a license. K.S.A. 1987 Supp. 74-5302(b); K.S.A. 74-5340. Violation of the Act is a class A misdemeanor.

*Attn: #4
3-2-8
PH+W*

K.S.A. 1987 Supp. 74-5341. The Act, however, lists instances in which a person is not required to be a licensed psychologist. K.S.A. 1987 Supp. 74-5344. One exception provides that qualified members of other professions may do work of a psychological nature if it is consistent with their training and consistent with the profession's code of ethics. This exception is the focus of H.B. 3032.

Psychologists are licensed and regulated by the Behavioral Sciences Regulatory Board (Board). The Board only has authority to take action on the licensure of licensed psychologists. Complaints or evidence received by the Board that unlicensed persons are representing themselves as psychologists or are practicing psychology are referred to the Attorney General's office for prosecution. K.S.A. 74-5342. Our office has received an increasing number of complaints that unlicensed persons are practicing psychology in the form of psychological testing. Our office has found that it is not able to take action on such complaints due to the exception that I mentioned earlier.

An example is a case our office was involved in in Wichita. An individual was a counselor in private practice, was not a licensed psychologist, but was hired by the Sedgwick

County courts to perform and evaluate psychological tests. We asserted that the individual was in violation of Kansas statute by practicing psychology without a license. Our office had to dismiss the claim when it was learned that the unlicensed person was certified by two professional organizations: the National Board of Certified Counselors and the National Academy of Certified Mental Health Counselors. The individual had experience doing psychological testing and the organizations stated that such testing was consistent with their code of ethics.

Recently, a situation was brought to our attention that one of the larger cities in Kansas contracts with a counselor in private practice to do psychological testing for the police department as a way of evaluating police officer candidates. The Attorney General was unable to take action in this matter as the individual is certified by the National Academy of Certified Clinical Mental Health Counselors. Again, the code of ethics of this organization provides that the persons it credentials may perform and evaluate psychological tests.

The purpose of licensing psychologists is to protect the public. Exceptions to the Licensure of Psychologists Act should not thwart that purpose. The provision which allows ministers

and Christian Science practitioners to do work of a psychological nature is not in question. However, the language of K.S.A. 1987 Supp. 74-5344 which allows unlicensed persons to render psychological services to the public in the manner in which I have described is a loop-hole which undermines the intent and purpose of the law. In addition, a good argument can be made that this exception is an unconstitutional delegation of legislative power as out-of-state, nongovernmental organizations are allowed to establish qualification to practice psychology in this state.

To remedy the situation we have encountered, the Attorney General asks the committee to adopt the amendments as proposed in H.B. 3032. Section 1 as amended would prevent outside organizations from establishing a credentialing system and a code of ethics enabling unlicensed persons to practice psychology in this state. A new subsection (b) is added to provide that persons regulated by the state through licensure or registration may do work of a psychological nature if the Kansas statutes and regulations governing that profession permit the person to do so. Subsection (f) is eliminated as the persons who may do work of a psychological nature are listed in new subsection (b).

FRANK BUEHLER
REPRESENTATIVE, ONE HUNDRED THIRTEENTH DISTRICT
BARTON COUNTY
P.O. BOX 317
CLAFLIN, KANSAS 67525-0317



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MEMBER: JUDICIARY
LABOR AND INDUSTRY

March 2, 1988

Sub Committee Report - HB 2659

Mr. Chairman:

Your sub committee on HB 2659 respectfully submits our report.

We propose the amendments as presented, after full consideration of HB 2659.

Our attention was directed to the entire issue and specifically to the area of encouraging testing and counseling for those charged and provides testing and counseling for the victim, Subsection (b) of Section 1. Then to the area of what type charges should be involved in the consideration mandating testing and designates who will receive the information, Subsection (c) and (d) Section 1 and the provision of confidentiality.

Thank you,

Rep. Frank Buehler
Rep. Dorothy Flottman
Rep. Jesse Harder

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Proposed Amendments to HOUSE BILL NO. 2659

AN ACT concerning AIDS; requiring testing of persons convicted of certain crimes; providing for counseling for certain victims thereof.

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

Section 1. (a) As used in this section:

(1) "AIDS test" means a test approved by the secretary of health and environment to detect antibodies to the probable causative agent for the disease acquired immune deficiency syndrome.

(2) "A positive reaction" means a positive AIDS test with a positive confirmatory test as specified by the secretary of health and environment.

(b) At the time of an appearance before a magistrate under K.S.A. 22-2901 and amendments thereto, the magistrate shall inform every person arrested and charged with a crime of the availability of AIDS testing and counseling and shall cause the alleged victim of a crime, if any, to be notified that AIDS testing and counseling is available.

~~(b)~~ (c) Upon conviction of a person for any crime under article-35-of-chapter-21-of-the-Kansas--Statutes--Annotated,--the crime--of--incest--under-K.S.A.-21-3602-and-amendments-thereto-or the--crime--of--aggravated--incest--under--K.S.A.---21-3603---and amendments--thereto which the court determines from the facts of the case involved or was likely to have involved the transmission of body fluids from one person to another, the court shall order the convicted person to submit to an AIDS test. If an AIDS test is ordered under this subsection (c), the victim of the crime, if any, who is not a minor shall designate a health care provider or counselor to receive such information on behalf of the victim. If the victim is a minor, the parent or legal guardian of the victim shall designate the health care provider or counselor to

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receive such information. If the test results in a negative reaction, the court shall order the convicted person to submit to another AIDS test six months after the first test was administered.

{e} (d) The results of any AIDS test ordered under this section shall be disclosed to the court which ordered the test, the convicted person and to the person designated under subsection (c) by the victim or victims of the crimes--for--which the--person--was--convicted.--If--a--victim--is--a--minor,--the--test results--shall--be--disclosed--to--the--parent--or--legal--guardian--of--the minor crime or by the parent or legal guardian of a victim if the victim is a minor. If an AIDS test ordered under this section results in a positive reaction, the results shall be reported to the secretary of health and environment and to the secretary of corrections and--such--counseling--as--directed--by--the--secretary--of health--and--environment--shall--be--provided--to--the--victim--or victims.

{d} (e) The--costs--of--any--test--ordered--under--this--section and--the--cost--of--any--counseling--provided--under--this--section--shall be--paid--from--amounts--appropriated--for--such--purposes--upon--warrants of--the--director--of--accounts--and--reports--issued--pursuant--to vouchers--approved--by--the--secretary--of--health--and--environment--or--a person--designated--by--the--secretary. Restitution to the state for payment of such the costs of any test ordered under this section shall be included by the court in any order requiring the convicted person to pay restitution.

{e} (f) When a court orders a convicted person to submit to an AIDS test under this section, the withdrawal of the blood may be performed only by: (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person; (2) a registered licensed professional nurse or a licensed practical nurse; or (3) a qualified medical technician. No person authorized by this subsection to withdraw blood, no person assisting in the performance of the AIDS test nor any medical care facility where blood is withdrawn or tested

that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices in the community where performed.

~~(f)~~ (g) ~~The results of tests and reports to the secretary of health and environment required under this section, and information contained therein, shall be confidential and shall not be divulged or open to inspection to any person other than the secretary of health and environment or the secretary's authorized representatives except upon written permission of the person or persons affected. Any person who divulges or opens to inspection such~~ The results of tests or reports, or information therein, obtained under this section shall be confidential and shall not be divulged to any person not authorized by this section to receive the same. Any violation of this section is ~~guilty of a misdemeanor punishable by a fine of not more than \$10,000 for each violation.~~

~~(g) The secretary of health and environment shall adopt such rules and regulations as necessary to implement the provisions of this section.~~

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

HOUSE BILL No. 2643

By Special Committee on Public Health and Welfare

Re Proposal No. 29

12-16

material within brackets would be deleted

0018 AN ACT concerning certain health care providers; relating to
0019 regulation, risk management and peer review; amending
0020 K.S.A. 65-1216 and 65-4217 and K.S.A. 1987 Supp. 65-430,
0021 65-4915, 65-4921, 65-4923 and 65-4930 and repealing the
0022 existing sections.

0023 *Be it enacted by the Legislature of the State of Kansas:*

0024 Section 1. K.S.A. 1987 Supp. 65-4915 is hereby amended to
0025 read as follows: 65-4915. (a) As used in this section:

0026 (1) "Health care provider" has the meaning provided by
0027 means: (A) *Those persons and entities defined as a health care*
0028 *provider under K.S.A. 40-3401 and amendments thereto; and (B)*
0029 *a dentist licensed by the Kansas dental board, a dental hygienist*
0030 *licensed by the Kansas dental board, a professional nurse li-*
0031 *censed by the board of nursing, a practical nurse licensed by the*
0032 *board of nursing, a mental health technician licensed by the*
0033 *board of nursing, a physical therapist assistant certified by the*
0034 *state board of healing arts, an occupational therapist registered*
0035 *by the state board of healing arts, an occupational therapy*
0036 *assistant registered by the state board of healing arts and a*
0037 *respiratory therapist registered by the state board of healing*
0038 *arts.*

0039 (2) "Health care provider group" means:

0040 (A) A state or local association of health care providers;
0041 (B) the board of governors created under K.S.A. 40-3403 and
0042 amendments thereto;
0043 (C) an organization of health care providers formed pursuant
0044 to state or federal law and authorized to evaluate medical and
0045 health care services;

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0016 (D) a review committee operating pursuant to K.S.A. 65-
0017 2840b through 65-2840d, and amendments thereto;

0018 (E) an organized medical staff of a licensed medical care
0019 facility as defined by K.S.A. 65-425 and amendments thereto; or a private psychiatric hospital licensed under K.S.A.
75-3307b and amendments thereto

0050 (F) a health care provider; or

0051 (G) a professional society of health care providers or one or
0052 more committees thereof.

0053 (3) "Peer review" means any of the following functions:

0054 (A) Evaluate and improve the quality of health care services
0055 rendered by health care providers;

0056 (B) determine that health services rendered were profes-
0057 sionally indicated or were performed in compliance with the
0058 applicable standard of care;

0059 (C) determine that the cost of health care rendered was
0060 considered reasonable by the providers of professional health
0061 services in this area;

0062 (D) evaluate the qualifications, competence and performance
0063 of the providers of health care or to act upon matters relating to
0064 the discipline of any individual provider of health care;

0065 (E) reduce morbidity or mortality;

0066 (F) establish and enforce guidelines designed to keep within
0067 reasonable bounds the cost of health care;

0068 (G) conduct of research;

0069 (H) determine if a hospital's facilities are being properly
0070 utilized;

0071 (I) supervise, discipline, admit, determine privileges or con-
0072 trol members of a hospital's medical staff;

0073 (J) review the professional qualifications or activities of
0074 health care providers;

0075 (K) evaluate the quantity, quality and timeliness of health
0076 care services rendered to patients in the facility;

0077 (L) evaluate, review or improve methods, procedures or
0078 treatments being utilized by the medical care facility or by
0079 health care providers in a facility rendering health care.

0080 (4) "Peer review officer or committee" means an individual
0081 employed, designated or appointed by, or a committee of or
0082 employed, designated or appointed by, a health care provider

0083 group and authorized to perform peer review.

0084 (b) Except as provided by K.S.A. 60-437 and amendments
0085 thereto and by subsections (c) and (d), the reports, statements,
0086 memoranda, proceedings, findings and other records of peer
0087 review committees or officers shall be privileged and shall not
0088 be subject to discovery, subpoena or other means of legal com-
0089 pulsion for their release to any person or entity or be admissible
0090 in evidence in any judicial or administrative proceeding. Infor-
0091 mation contained in such records shall not be discoverable or
0092 admissible at trial in the form of testimony by an individual who
0093 participated in the peer review process. This privilege may be
0094 claimed by the legal entity creating the peer review committee
0095 or officer, or by the commissioner of insurance for any records or
0096 proceedings of the board of governors.

0097 (c) Subsection (b) shall not apply to proceedings in which a
0098 health care provider contests the revocation, denial, restriction
0099 or termination of staff privileges or the license, registration,
0100 certification or other authorization to practice of the health care
0101 provider.

0102 (d) Nothing in this section shall limit the authority, which
0103 may otherwise be provided by law, of the commissioner of
0104 insurance, the state board of healing arts or other health care
0105 provider licensing or disciplinary boards of this state to require a
0106 peer review committee or officer to report to it any disciplinary
0107 action or recommendation of such committee or officer; to
0108 transfer to it records of such committee's or officer's proceedings
0109 or actions to restrict or revoke the license, registration, certifica-
0110 tion or other authorization to practice of a health care provider; or
0111 to terminate the liability of the fund for all claims against a
0112 specific health care provider for damages for death or personal
0113 injury pursuant to subsection (i) of K.S.A. 40-3403 and amend-
0114 ments thereto. ~~Prior to the filing of an action initiating a formal~~
0115 ~~disciplinary proceeding against a health care provider by the~~
0116 ~~state board of healing arts or other health care provider licensing~~
0117 ~~or disciplinary boards of this state, Reports and records so fur-~~
0118 nished shall not be subject to discovery, subpoena or other
0119 means of legal compulsion ~~and for~~ their release to any persons

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.

to and discuss
 activities, information and
 other
 committees or officers

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

0157 certification or registration.

0158 (e) "Medical care facility" has the meaning provided by
0159 means: (1) A medical care facility licensed under K.S.A. 65-425
0160 et seq. and amendments thereto; ~~and~~ (2) a private psychiatric
0161 hospital licensed under K.S.A. 75-3307b and amendments
0162 thereto.

; and (3) state psychiatric hospitals and state institu-
tions for the mentally retarded, as follows: Larned stat
hospital, Osawatomie state hospital, Rainbow mental health
facility; Topeka state hospital, Kansas neurological insti-
tute, Norton state hospital, Parsons state hospital and
training center and Winfield state hospital and training
center

0163 (f) "Reportable incident" means an act by a health care
0164 provider which: (1) Is or may be below the applicable standard of
0165 care and has a reasonable probability of causing injury to a
0166 patient; or (2) may be grounds for disciplinary action by the
0167 appropriate licensing agency.

0168 (g) "Risk manager" means the individual designated by a
0169 medical care facility to administer its internal risk management
0170 program and to receive reports of reportable incidents within the
0171 facility.

0172 (h) "Secretary" means the secretary of health and environ-
0173 ment.

0174 Sec. 3. K.S.A. 1987 Supp. 65-4923 is hereby amended to read
0175 as follows: 65-4923. (a) If a health care provider, ~~or a medical care~~
0176 ~~facility agent or employee who is directly involved in the deliv-~~
0177 ~~ery of health care services,~~ has knowledge that a health care
0178 provider has committed a reportable incident, such health care
0179 provider, ~~agent or employee~~ shall report such knowledge as
0180 follows:

Note: KDHE is opposed to the deletions in subsection (a).

0181 (1) If the reportable incident did not occur in a medical care
0182 facility, the report shall be made to the appropriate state or
0183 county professional society or organization, which shall refer the
0184 matter to a professional practices review committee duly consti-
0185 tuted pursuant to the society's or organization's bylaws. The
0186 committee shall investigate all such reports and take appropriate
0187 action. The committee shall have the duty to report to the
0188 appropriate state licensing agency any finding by the committee
0189 that a health care provider acted below the applicable standard
0190 of care which action had a reasonable probability of causing
0191 injury to a patient, or in a manner which may be grounds for
0192 disciplinary action by the appropriate licensing agency, so that
0193 the agency may take appropriate disciplinary measures.

Note: Representative Shallenburger may offer an amend-
ment to this bill.

Proposed Amendment to HOUSE BILL NO. 2643

Be amended:

On page 10, following line 370, by inserting the following:

"Sec. 8. K.S.A. 1987 Supp. 65-4924 is hereby amended to read as follows: 65-4924. (a) If a report to a state licensing agency pursuant to subsection (a)(1) or (2) of K.S.A. ~~1986~~ 1987 Supp. 65-4923 or any other report or complaint filed with such agency relates to a health care provider's inability to practice the provider's profession with reasonable skill and safety due to physical or mental disabilities, including deterioration through the aging process, loss of motor skill or abuse of drugs or alcohol, the agency may refer the matter to an impaired provider committee of the appropriate state or county professional society or organization.

(b) The state licensing agency shall have the authority to enter into an agreement with the impaired provider committee of the appropriate state or county professional society or organization to undertake those functions and responsibilities specified in the agreement and to provide for payment therefor from moneys appropriated to the agency for that purpose which moneys shall be matched on a dollar-for-dollar basis by the state or county professional society or organization which is a party to the agreement. Such functions and responsibilities may include any or all of the following:

- (1) Contracting with providers of treatment programs;
- (2) receiving and evaluating reports of suspected impairment from any source;
- (3) intervening in cases of verified impairment;
- (4) referring impaired providers to treatment programs;
- (5) monitoring the treatment and rehabilitation of impaired health care providers;
- (6) providing posttreatment monitoring and support of rehabilitated impaired health care providers; and

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(7) performing such other activities as agreed upon by the licensing agency and the impaired provider committee.

(c) The impaired provider committee shall develop procedures in consultation with the licensing agency for:

(1) Periodic reporting of statistical information regarding impaired provider program activity;

(2) periodic disclosure and joint review of such information as the licensing agency considers appropriate regarding reports received, contacts or investigations made and the disposition of each report;

(3) immediate reporting to the licensing agency of the name and results of any contact or investigation regarding any impaired provider who is believed to constitute an imminent danger to the public or to self;

(4) reporting to the licensing agency, in a timely fashion, any impaired provider who refuses to cooperate with the committee or refuses to submit to treatment, or whose impairment is not substantially alleviated through treatment, and who in the opinion of the committee exhibits professional incompetence; and

(5) informing each participant of the impaired provider committee of the procedures, the responsibilities of participants and the possible consequences of noncompliance.

(d) If the licensing agency has reasonable cause to believe that a health care provider is impaired, the licensing agency may cause an evaluation of such health care provider to be conducted by the impaired provider committee or its designee for the purpose of determining if there is an impairment. The impaired provider committee or its designee shall report the findings of its evaluation to the licensing agency.

(e) An impaired health care provider may submit a written request to the licensing agency for a restriction of the provider's license. The agency may grant such request for restriction and shall have authority to attach conditions to the licensure of the provider to practice within specified limitations. Removal of a voluntary restriction on licensure to

practice shall be subject to the statutory procedure for reinstatement of license.

(f) A report to the impaired provider committee shall be deemed to be a report to the licensing agency for the purposes of any mandated reporting of provider impairment otherwise provided for by the law of this state.

(g) An impaired provider who is participating in, or has successfully completed, a treatment program pursuant to this section shall not be excluded from any medical care facility staff solely because of such participation. However, the medical care facility may consider any impairment in determining the extent of privileges granted to a health care provider.

(h) Notwithstanding any other provision of law, a state or county professional society or organization and the members thereof shall not be liable to any person for any acts, omissions or recommendations made in good faith while acting within the scope of the responsibilities imposed pursuant to this section.";

And by renumbering sections and changing the repealer and title accordingly;