

Approved 3-1-88  
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at  
Chairperson

10:00 a.m./~~p.m.~~ on February 23, 1988 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Legislative Research  
Norman Furse, Revisors Office  
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Lawrence T. Buening, Jr., General Counsel, Board of Healing Arts  
Wayne Probasco, Executive Secretary, Kansas Podiatric Medical Association  
Jerry Slaughter, Executive Director, Kansas Medical Society  
Esther V. Wolf, Secretary, Department on Aging  
Helen R. Miller, National Council on Aging

Chairman Ehrlich called the meeting to order and presented the minutes of February 16, 17 and 18, 1988, for approval or correction. Senator Hayden made the motion to accept the minutes as presented with a second from Senator Bond. The motion carried.

Senator Ehrlich welcomed Sara Peckham and Jammi Likes from Claflin who were paging today.

Lawrence T. Buening, Jr., appeared and presented written testimony including a balloon bill on SB-603. Mr. Buening stated that during the 1987 legislature a substitute bill for SB-35 was introduced and the provisions were limited to Physicians Assistants. Consequently, no statutory changes were made to the Podiatry Act or other statutes relating to podiatrists. The balloon bill presents a number of changes felt desirable in order to bring the statutes regulating Podiatrists into conformity with those statutes regulating licenses under the Healing Arts Act. Attachment 1

Wayne Probasco appeared before the committee in support of the amendments offered by the Board of Healing Arts on SB-603. Mr. Probasco stated that the changes basically bring the language relating to Podiatrists into conformity with other professions operating under the Board of Healing Arts. Attachment 2

Lawrence T. Buening, Jr. appeared before the committee and presented written testimony concerning SB-656 which deals with "exempt License holders." Following passage of SB-36 last legislative session, problems arose due to the fact that regulations did not allow exempt license holders to utilize controlled substances and did not specifically deal with the ability of district coroners to be exempt licensees. It was further stated that the board felt there should be some parameters on what the exempt licensees can do. Consequently, regulations were drafted which permit utilization of prescription drugs other than those which the legislature has determined to be subject to abuse. The fact that no malpractice insurance is required and no continuing education is required was considered when these regulations were drafted. Also, it was felt that while administrative functions of a district coroner could be performed by an exempt licensee, a licensed person with insurance and continuing education should be performing autopsies. Attachment 3

Jerry Slaughter appeared before the committee concerning SB-656. Mr.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 526-S, Statehouse, at 10:00 a.m./~~p.m.~~ on February 23, 1988

Slaughter stated that the bill to grant exempt licenses granted all the privileges attendant to that branch of the healing arts for which licensed. However, because the Board of Healing Arts, through rules and regulations, has placed certain restrictions on what exempt licensees may do, a physician has difficulty providing a full range of volunteer work upon retirement if they are unable to write certain prescriptions. Mr. Slaughter testified that his organization felt no changes were needed and the present bill captures the essence of the law. It was also stated that it was felt that the Board of Healing Arts has the authority to regulate through other laws. Attachment 4

Esther V. Wolf appeared before the committee in support of SB-660. Secretary Wolf stated that the Kansas Department on Aging, due to financial restraints, was recommending a reduction in membership of the council from 19 to 15 members. It was also stated that the requirement of 60 years of age prohibited the appointment of people to the Council who are very interested in aging issues and concerns but who have not yet reached age 60. Removal of this requirement would provide more flexibility in appointments. Attachment 5

Helen R. Miller appeared before the committee concerning SB-660. Ms. Miller stated her concern regarding the age issue and recommended that the wording be changed to read "at least one half of the council members shall be 60 years of age or older." It was also stated that equal representation, that is, a representative from each planning service area, was an important area of concern and the deletion of this provision should be reconsidered. Attachment 6

The meeting adjourned at 11:03 a.m. and will meet Wednesday, February 24, 1988 at 10:00 a.m. in room 526-S.

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE February 23, 1988

(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

Wayne Probaseo

Ks. Podiatric Med. Assn

Suzella Waser

Ks Dept on Aging

Dyle R Miller

Natl. Co. on Aging

Sue Bond

R D O A

Esther D Wolf

K D O A

Kelly L. Hays

Charlene Abbott

Bd Healing Arts

Larry Buring

Bd of Healing Arts

Hanna J. Kied

Jayhawk AAA

KATH R LANDIS

CHRISTIAN SCIENCE COMMITTEE  
ON PUBLICATION FOR KANSAS

Mark Intermill

Kansas Coalition on Aging

Marilyn Bradt

KINH

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MEMORANDUM

TO: Senate Public Health and Welfare Committee

FROM: Lawrence T. Buening, Jr.  
 General Counsel

DATE: February 23, 1988

RE: SENATE BILL NO. 603

As you might be aware, most of the changes proposed in this Bill were originally proposed in 1987 Senate Bill No. 35. That Bill was proposed by the Special Committee on Ways and Means following its Interim Legislative Study on Proposal No. 40. A substitute Senate Bill No. 35 was adopted. However, the provisions of that particular Bill were limited to physicians assistants. Therefore, there were no statutory changes made to the Podiatry Act or other statutes relating to Podiatrists.

At the Board Meeting on December 4, 1985, the Board voted to support changing the credentialing status of Podiatrist from registered to licensed. Also, the Board approved statutory changes that would conform procedural matters, particularly in the area of discipline, to that regulating licensees under the Healing Arts Act.

Although the Board supports Senate Bill No. 603, there are several amendments which are felt to be desirable in order to bring the statutes regulating Podiatrists into conformity with those statutes regulating licensees under the Healing Arts Act. These are as follows:

On page 3, at lines 108 and 109, "on a biennial basis" should be changed to "annually". (All of the other licensees and registrants regulated by the Board renew on an annual basis rather than biennially and it is felt this should remain consistent for Podiatrists.)

At page 3, line 116, "place of residence" should be changed to "mailing address". (This is proposed due to some comments that were recently made in a disciplinary case involving the Board and a licensee of the Healing Arts Act.)

In Senate Bill 656, which is to be considered after this Bill, the Board is also proposing similar change to K.S.A. 1987 Supp. 65-2809, so that the language for Podiatrists and licensees under the Healing Arts Act will be identical.

At page 5, in subsection G of section 4, which commences at line 170, it is proposed that any changes made to exempt licenses for licensees of the Healing Arts in Senate Bill No. 656 should likewise be made to this particular subsection.

At page 5, line 180, "on a biennial basis" should again be changed to "annually".

At page 6, line 197 through 213 should be deleted since this language would be unnecessary if renewal remains on an annual basis.

At page 6, line 215, the language, "other than an inactive license," should be deleted since the 1987 Legislature opted to create an exempt license rather than an inactive license status.

At page 9, section 8 should be completely revised and simplified to read as follows:

"Sec. 8. K.S.A. 65-2110 is hereby amended to read as follows: 65-2010. The board shall require every licensed podiatrist in the active practice of podiatry within Kansas to submit evidence of satisfactory completion of a program of continuing education required by the Board. The requirements for continuing education shall be established by the podiatry examining committee. The board shall adopt rules and regulations prescribing the requirements established by the podiatry examining committee. In establishing such requirements the podiatry examining committee shall consider any programs of continuing education currently being offered."

At page 11, section 9 (a)(1-5) should be changed from \$300 to \$150 since the renewal will be on an annual rather than a biennial basis. This would conform the statutory maximum for these fees with that required of licensees under the Healing Arts Act.

I have prepared a balloon to Senate Bill No. 603 which incorporates each of these changes above referred to.

Thank you very much for providing me the opportunity to appear and provide testimony to you on this Bill. I am available for whatever questions you might have.

## SENATE BILL No. 603

By Senators Ehrlich, Bond, Morris, Reilly, Salisbury and Vid-  
ricksen

2-10

0017 AN ACT concerning podiatrists; regulating the practice thereof;  
0018 authorizing certain fees and penalties; amending K.S.A. 40-  
0019 1126, 65-2002, 65-2003, 65-2009, 65-2010, 65-2012 and 65-  
0020 2901 and K.S.A. 1987 Supp. 7-121b, 60-513d, 40-3401, 60-  
0021 2609, 65-1163, 65-2004, 65-2005, 65-2006, 65-2812, 65-2813,  
0022 65-2891, 65-2912, 65-4909 and 65-5001 and repealing the  
0023 existing sections.

0024 *Be it enacted by the Legislature of the State of Kansas:*

0025 Section 1. K.S.A. 65-2002 is hereby amended to read as fol-  
0026 lows: 65-2002. (a) It shall be unlawful for any person to profess to  
0027 be a podiatrist, to practice or assume the duties incidental to  
0028 podiatry, ~~or~~ to advertise or hold ~~himself or herself~~ *oneself* out to  
0029 the public as a podiatrist, or to use any sign or advertisement  
0030 with the word *or words* "podiatrist," "foot specialist," "foot  
0031 correctionist," "foot expert," "practapedist" or "chiroprapist," or  
0032 any other term or terms indicating that ~~he or she~~ *such person* is a  
0033 podiatrist or that ~~he or she~~ *such person* practices or holds ~~himself~~  
0034 ~~or herself~~ *oneself* out as practicing podiatry or foot correction in  
0035 any manner, without first obtaining from the state board of  
0036 ~~healing arts~~ a license authorizing the practice of podiatry in this  
0037 state, except as hereinafter provided.

0038 (b) A ~~registered licensed~~ podiatrist shall be authorized to  
0039 prescribe such drugs or medicine, and to perform such surgery  
0040 on the human foot or toes, as may be necessary to the proper  
0041 practice of podiatry, but no podiatrist shall amputate the human  
0042 foot or toes or administer any anesthetic other than local.

0043 (c) This act shall not prohibit the recommendation, advertis-  
0044 ing, fitting or sale of corrective shoes, arch supports, or similar  
0045 mechanical appliances, or foot remedies by manufacturers,

0046 wholesalers; or retail dealers.

0047 Sec. 2. K.S.A. 65-2003 is hereby amended to read as follows:  
0048 65-2003. (a) Examinations ~~to procure for~~ for a license to practice  
0049 podiatry in this state shall be held ~~semiannually~~ at the same time  
0050 and place as the examinations held by the ~~state board of healing~~  
0051 ~~arts under the Kansas healing arts act~~. All applicants for a  
0052 license to practice podiatry under the provisions of this act: (1)  
0053 Shall have attained the age of 21 years; (2) shall have completed  
0054 at least four years of instruction in, and be graduates of, a school  
0055 of podiatry which is recognized as being in good standing by the  
0056 ~~state board of healing arts~~; and (3) commencing with applicants  
0057 for a license to be granted on or after July 1, 1988, shall have  
0058 completed acceptable postgraduate study as may be established  
0059 by the ~~state board of healing arts~~ by rules and regulations.

0060 (b) Applicants licensed, registered or certified by a board of  
0061 examiners of any other state or country whose requirements for  
0062 licensure, registration or certification are substantially equal to  
0063 those of this state in the opinion of the state board of healing arts  
0064 may be granted, upon payment of the endorsement license fee  
0065 established pursuant to K.S.A. 65-2012, and amendments  
0066 thereto, a license without examination. ~~The provisions of this~~  
0067 ~~section shall be extended only to applicants from those states and~~  
0068 ~~countries which extend a similar privilege to registered podia-~~  
0069 ~~trists of this state.~~

0070 Sec. 3. K.S.A. 1987 Supp. 65-2004 is hereby amended to read  
0071 as follows: 65-2004. (a) Except as provided in subsection (b) of  
0072 K.S.A. 65-2003 and amendments thereto, each applicant for a  
0073 license to practice podiatry shall be examined by the board in the  
0074 following subjects: Anatomy, bacteriology, chemistry, dermatol-  
0075 ogy, histology, pathology, physiology, pharmacology and medi-  
0076 cine, diagnosis, therapeutics, and clinical podiatry and surgery,  
0077 limited in their scope to the treatment of the human foot. If the  
0078 applicant possesses the qualifications required by K.S.A. 65-2003  
0079 and amendments thereto, completes the examination prescribed  
0080 with a ~~general average of 75% in all subjects combined and not~~  
0081 ~~less than 60% in any one subject the passing grade as established~~  
0082- by rules and regulations of the board and pays to the board the

0083 license fee established pursuant to K.S.A. 65-2012 and amend-  
0084 ments thereto, such applicant shall be issued a license by the  
0085 board to practice podiatry in this state.

0086 (b) Each applicant before taking the examination shall pay to  
0087 the board the examination fee established pursuant to K.S.A.  
0088 65-2012 and amendments thereto. Any applicant failing the ex-  
0089 amination ~~shall be entitled, at the expiration of six months from~~  
0090 ~~the time of such failure, to may have a reexamination without the~~  
0091 ~~payment of an additional fee for such examination in accord-~~  
0092 ~~ance with criteria established by rules and regulations of the~~  
0093 ~~board, which criteria may limit the number of times an appli-~~  
0094 ~~cant may retake the examination.~~

0095 Sec. 4. K.S.A. 1987 Supp. 65-2005 is hereby amended to read  
0096 as follows: 65-2005. (a) A licensee shall be designated a ~~regis-~~  
0097 ~~tered licensed~~ podiatrist and shall not use any title or abbrevia-  
0098 tions thereof without the designation ~~registered licensed~~ podia-  
0099 trist, practice limited to the foot, and shall not mislead the public  
0100 as to such licensee's limited professional qualifications to treat  
0101 human ailments. *Whenever a registered podiatrist, or words of*  
0102 *like effect, is referred to or designated by any statute, contract*  
0103 *or other document, such reference or designation shall be*  
0104 *deemed to refer to or designate a licensed podiatrist.*

0105 (b) ~~Every registered~~ *The license of each licensed podiatrist*  
0106 *shall renew the podiatrist's license on July 1 of each year by*  
0107 *paying to the board expire on the date of expiration established*  
0108 *by rules and regulations of the board and may be renewed on a* \_\_\_\_\_ *annually*  
0109 *biennial basis upon the request of the licensee. The request for*  
0110 *renewal shall be on a form provided by the board and shall be*  
0111 *accompanied by the renewal fee established pursuant to K.S.A.*  
0112 *65-2012 and amendments thereto which shall be paid not later*  
0113 *than the expiration date of the license. At least 30 days before*  
0114 *the expiration of a licensee's license, the board shall notify the*  
0115 *licensee of the expiration by mail addressed to the licensee's last*  
0116 *place of residence as noted upon the office records. If a licensee* \_\_\_\_\_ *mailing address*  
0117 *fails to pay the renewal fee within three months subsequent to*  
0118 *July 1 of each year by the date of expiration, the licensee shall be*  
0119 *given a second notice that the licensee's license has expired and*



0120 the license may be renewed only if the renewal fee and the late  
0121 renewal fee are received by the board within the thirty-day  
0122 period following the date of expiration and that, if both fees are  
0123 not received within the thirty-day period, such licensee's li-  
0124 cense shall be considered to have ~~expired~~ lapsed for failure to  
0125 renew and shall be reissued only ~~upon another application and~~  
0126 ~~the payment of both the renewal fee and the late renewal fee~~  
0127 ~~established pursuant to K.S.A. 65-2012 and amendments thereto~~  
0128 after the licensee has been reinstated under subsection (c).

0129 (c) Any licensee who allows the licensee's license to lapse by  
0130 failing to renew as herein provided may be reinstated upon  
0131 recommendation of the board and upon payment of the renewal  
0132 fee and the reinstatement fee established pursuant to K.S.A.  
0133 65-2012 and amendments thereto and upon submitting evidence  
0134 of satisfactory completion of the applicable reeducation and  
0135 continuing education requirements established by the board.  
0136 The board shall adopt rules and regulations establishing ap-  
0137 propriate reeducation and continuing education requirements  
0138 for reinstatement of persons whose licenses have lapsed for  
0139 failure to renew.

0140 (d) The board, prior to renewal of a license, shall require the  
0141 licensee, if in the active practice of podiatry within Kansas, to  
0142 submit to the board evidence satisfactory to the board that the  
0143 licensee is maintaining a policy of professional liability insur-  
0144 ance as required by K.S.A. 40-3402 and amendments thereto and  
0145 has paid the annual premium surcharge as required by K.S.A.  
0146 40-3404 and amendments thereto.

0147 (e) (e) The board may issue a temporary permit to practice  
0148 podiatry in this state to any person making application ~~in writing~~  
0149 for such temporary permit upon a form provided by the board  
0150 who meets the requirements prescribed by the board and who  
0151 pays to the board the temporary permit fee established pursuant  
0152 to K.S.A. 65-2012 and amendments thereto. A temporary permit  
0153 shall authorize the permittee to practice within the limits of the  
0154 permit until the date that results of the next examination are  
0155 known and licenses based on such examination are issued li-  
0156 cense is issued or denied to the permittee by the board, except

0157 that where a graduate podiatrist is working under the supervi-  
0158 sion of a licensed podiatrist in a training program approved by  
0159 the board, the temporary permit issued to such graduate podia-  
0160 trist shall be valid for the period of such training program.

0161 (f) The board may issue, upon payment to the board of the  
0162 temporary license fee established pursuant to K.S.A. 65-2012 and  
0163 amendments thereto, a temporary license to a practitioner of  
0164 another state or country who is appearing as a clinician at  
0165 meetings, seminars or training programs approved by the board,  
0166 if the practitioner holds a current license, registration or certifi-  
0167 cate as a podiatrist from another state or country and the sole  
0168 purpose of such appearance is for promoting professional edu-  
0169 cation.

0170 (g) There is hereby created a designation of exempt license.  
0171 The board is authorized to issue an exempt license to any  
0172 licensee who makes written application for such license on a  
0173 form provided by the board and remits the fee for an exempt  
0174 license established pursuant to K.S.A. 65-2012 and amendments  
0175 thereto. The board may issue an exempt license only to a person  
0176 who has previously been issued a license to practice podiatry  
0177 within Kansas and who is no longer regularly engaged in such  
0178 practice and who does not hold oneself out to the public as being  
0179 professionally engaged in such practice. Each exempt license  
0180 may be renewed ~~on a biennial basis~~ annually subject to the other provi-  
0181 sions of this section and other sections of the podiatry act. Each  
0182 exempt licensee shall be subject to all provisions of the podiatry  
0183 act, except as otherwise provided therein. The holder of an  
0184 exempt license shall not be required to submit evidence of  
0185 satisfactory completion of a program of continuing education  
0186 required under the podiatry act. Each exempt licensee may  
0187 apply for a license to regularly engage in the practice of podia-  
0188 try upon filing a written application with the board and sub-  
0189 mitting evidence of satisfactory completion of the applicable  
0190 and continuing education requirements established by the  
0191 board. The request shall be on a form provided by the board and  
0192 shall be accompanied by the license fee established therefor  
0193 pursuant to K.S.A. 65-2012 and amendments thereto. The board

annually

0194 shall adopt rules and regulations establishing appropriate and  
0195 continuing education requirements for exempt licensees to be-  
0196 come licensed to regularly practice podiatry within Kansas.

0197 ~~(h) The expiration date of each license issued or renewed by~~  
0198 ~~the board shall be established by rules and regulations of the~~  
0199 ~~board. Subject to the provisions of this subsection, each license~~  
0200 ~~shall be renewable on a biennial basis upon the filing of a~~  
0201 ~~renewal application and payment of the renewal fee or other fee~~  
0202 ~~as provided by this section. To provide for a system of biennial~~  
0203 ~~renewal of licenses, the board may provide by rules and regula-~~  
0204 ~~tions that licenses issued or renewed for the first time after the~~  
0205 ~~effective date of this act may expire less than two years from the~~  
0206 ~~date of issuance or renewal. In each case in which a license is~~  
0207 ~~issued or renewed for a period of time less than two years, the~~  
0208 ~~board shall prorate to the nearest whole month the license or~~  
0209 ~~renewal fee established pursuant to K.S.A. 65-2012 and amend-~~  
0210 ~~ments thereto. The provisions of this subsection shall not apply~~  
0211 ~~to any temporary permit or temporary license issued by the~~  
0212 ~~board under this section, but shall apply to any inactive license~~  
0213 ~~issued by the board.~~-----

0214 (e) All licenses (i) Each license or permit granted under  
0215 this act, ~~other than an inactive license~~, shall be conspicuously  
0216 displayed at the office or other place of practice of the licensee or  
0217 permittee.

0218 Sec. 5. K.S.A. 1986 Supp. 65-2006 is hereby amended to read  
0219 as follows: 65-2006. (a) The board, upon hearing, may revoke,  
0220 suspend or limit any license or permit to practice podiatry, or  
0221 may deny issuance or renewal of any such license or permit, or  
0222 may publicly or privately censure a licensee or permittee, if the  
0223 person holding or applying for such license or permit is found by  
0224 the board to:

- 0225 (1) Have committed fraud in securing the license or permit;  
0226 (2) have engaged in unprofessional or dishonorable conduct  
0227 or professional incompetency;  
0228 (3) have been convicted of a felony if the board determines,  
0229 after investigation, that such person has not been sufficiently  
0230 rehabilitated to warrant the public trust;

0231 (4) have used untruthful or improbable statements or flam-  
0232 boyant, exaggerated or extravagant claims in advertisements  
0233 concerning the licensee's or permit holder's professional excel-  
0234 lence or abilities;  
0235 (5) ~~have used or distributed literature advertising profes-~~  
0236 ~~sional abilities;~~  
0237 ~~(6) have used any other unethical advertising practice;~~  
0238 (7) be addicted to or have distributed intoxicating liquors or  
0239 drugs for any other than lawful purposes;  
0240 ~~(8)~~ (6) have willfully or repeatedly violated the podiatry act,  
0241 the pharmacy act or the uniform controlled substances act, or any  
0242 rules and regulations adopted thereunder, or any rules and  
0243 regulations of the secretary of health and environment which are  
0244 relevant to the practice of podiatry;  
0245 ~~(9)~~ (7) have unlawfully invaded the field of practice of any  
0246 branch of the healing arts;  
0247 ~~(10) have failed to pay annual renewal fees specified in this~~  
0248 ~~act;~~  
0249 ~~(11)~~ (8) have failed to submit proof of completion of a con-  
0250 tinuing education course required pursuant to the podiatry act;  
0251 ~~(12)~~ (9) have engaged in the practice of podiatry under a false  
0252 or assumed name or impersonated another podiatrist, but prac-  
0253 tice by a licensee or permit holder under a professional corpora-  
0254 tion or other legal entity duly authorized to provide podiatry  
0255 services in the state shall not be considered to be practice under  
0256 an assumed name;  
0257 ~~(13)~~ (10) be unable to practice podiatry with reasonable skill  
0258 and safety to patients by reason of any mental or physical condi-  
0259 tion, illness, alcoholism or excessive use of drugs, controlled  
0260 substances or chemical or any other type of material;  
0261 ~~(14)~~ (11) have had ~~their~~ *the person's* license or permit to  
0262 practice podiatry revoked, suspended or limited, or have had  
0263 other disciplinary actions taken or an application for a license or  
0264 permit denied, by the proper licensing authority of any state,  
0265 territory or country or the District of Columbia;  
0266 ~~(15)~~ (12) have violated any rules and regulations of the board  
0267 or any lawful order or directive of the board; or

0268 ~~(16)~~ (13) have knowingly submitted a misleading, deceptive  
 0269 untrue or fraudulent misrepresentation on a claim form, bill or  
 0270 statement.

0271 (b) In determining whether or not a licensee or permit holder  
 0272 is unable to practice podiatry with reasonable skill and safety to  
 0273 patients as provided in subsection ~~(a)(13)~~ (a)(10), the board, upon  
 0274 probable cause, shall have authority to compel a licensee or  
 0275 permit holder to submit to mental or physical examination by  
 0276 such persons as the board may designate. Failure of a licensee or  
 0277 permit holder to submit to such examination when directed shall  
 0278 constitute an admission of the allegations against the licensee or  
 0279 permit holder, unless the failure was due to circumstances  
 0280 beyond the licensee's or permit holder's control. A person af-  
 0281 fected by this subsection shall be offered, at reasonable intervals,  
 0282 an opportunity to demonstrate that such person can resume the  
 0283 competent practice of podiatry with reasonable skill and safety to  
 0284 patients. Each licensee or permit holder accepting the privilege  
 0285 to practice podiatry in this state, by practicing podiatry in this  
 0286 state or by making and filing an application for a license or  
 0287 permit, or renewal of a license or permit, to practice podiatry in  
 0288 this state, shall be deemed to have consented to submit to a  
 0289 mental or physical examination when directed in writing by the  
 0290 board pursuant to this subsection and to have waived all objec-  
 0291 tions to the admissibility of the testimony or examination report  
 0292 of the person conducting such examination at any proceeding or  
 0293 hearing before the board on the ground that such testimony or  
 0294 examination report constitutes a privileged communication. The  
 0295 record of any board proceedings involving a mental or physical  
 0296 examination pursuant to this subsection shall not be used in any  
 0297 other administrative or judicial proceeding.

0298 Whenever the board directs that a licensee or permit holder  
 0299 submit to an examination pursuant to this subsection, the time  
 0300 from the date of the board's directive until the submission to the  
 0301 board of the report of the examination shall not be included in  
 0302 the computation of the time limit for hearing prescribed by  
 0303 K.S.A. 65-2842 and amendments thereto *the Kansas administra-*  
 0304 *tive procedure act.*

01-1

0305 (c) As used in this section, "professional incompetency" and  
 0306 "unprofessional conduct" shall have the meanings ascribed  
 0307 thereto by K.S.A. 65-2837 and amendments thereto.

0308 (d) The procedure for revocation, suspension, limitation,  
 0309 temporary suspension, temporary limitation, or for denial of  
 0310 issuance or renewal pursuant to this section, of any license or  
 0311 permit to practice podiatry shall be in accordance with the  
 0312 provisions of the Kansas administrative procedure act.

0313 New Sec. 6. (a) The state board of healing arts, in addition to  
 0314 any other penalty prescribed under the podiatry act, may assess a  
 0315 civil fine, after proper notice and an opportunity to be heard,  
 0316 against a licensee for a violation of the podiatry act in an amount  
 0317 not to exceed \$5,000 for the first violation, \$10,000 for the second  
 0318 violation and \$15,000 for the third violation and for each sub-  
 0319 sequent violation. All fines assessed and collected under this  
 0320 section shall be remitted promptly to the state treasurer. Upon  
 0321 receipt thereof, the state treasurer shall deposit the entire  
 0322 amount in the state treasury and credit it to the state general  
 0323 fund.

0324 (b) This section shall be part of and supplemental to the  
 0325 podiatry act.

0326 Sec. 7. K.S.A. 65-2009 is hereby amended to read as follows:  
 0327 65-2009. An action to enjoin or oust from the unlawful practice of  
 0328 podiatry may be brought and maintained in the name of the state  
 0329 of Kansas against any person who shall practice podiatry without  
 0330 being registered licensed to practice podiatry by the state board  
 0331 of healing arts. This authority shall be in addition to and not in  
 0332 lieu of authority to prosecute criminally any person unlawfully  
 0333 engaged in the practice of podiatry.

0334 Sec. 8. K.S.A. 65-2010 is hereby amended to read as follows:  
 0335 65-2010. ~~(a) Every registered licensed podiatrist in the active~~  
 0336 ~~practice of podiatry within Kansas shall submit with the annual~~  
 0337 ~~request for renewal fee required by under K.S.A. 65-2005, or any~~  
 0338 ~~and amendments thereto, evidence of satisfactory completion of~~  
 0339 ~~a continuing education course approved by the state board of~~  
 0340 ~~healing arts. The state board of healing arts shall revoke the~~  
 0341 ~~license of any individual who fails to submit proof of completion~~

The Board shall require every licensed podiatrist in the active practice of podiatry within Kansas to submit evidence of satisfactory completion of a program of continuing education required by the board. The requirements for continuing education shall be established by the podiatry examining committee. The board shall adopt rules and regulations prescribing the requirements established by the podiatry examining committee. In establishing such requirements the podiatry examining committee shall consider any programs of continuing education currently being offered.

~~0342 of such course. Where a license has been revoked for this cause,  
0343 the state board of healing arts may later reissue such license if  
0344 proof of completion of such course is later provided.~~

0345 (b) Every ~~registered licensed~~ podiatrist in the active practice  
0346 of podiatry within Kansas, in order to comply with the provi-  
0347 sions of this section, shall complete at least ~~fifty-four (54)~~ 54  
0348 hours over a ~~three (3) year~~ three-year period of a continuing  
0349 education course approved by the state board of healing arts. The  
0350 following categories of continuing education programs shall  
0351 count toward satisfying the hourly requirement: (1) Programs  
0352 offered by colleges of podiatry; (2) veterans administration pro-  
0353 grams; (3) American podiatry association programs; (4) state  
0354 podiatry association programs; (5) seminars sponsored by rec-  
0355 ognized specialty groups of the American podiatry association;  
0356 and (6) the activities of persons publishing papers, presenting  
0357 clinics, lecturing and teaching shall be granted ~~ten (10)~~ 10 credit  
0358 hours for each hour of original presentation and hour for hour  
0359 credit for additional presentations of the same material.

0360 (c) Formal meetings and seminars which are not included in  
0361 any category of subsection (b) of this section shall be assigned  
0362 credit by the state board of healing arts upon the licensee fur-  
0363 nishing a copy of the program of such meetings and seminars to  
0364 the state board of healing arts for such the board's approval ~~thirty~~  
0365 ~~(30)~~ 30 days prior to the license renewal date. Podiatrists en-  
0366 gaged in acceptable internships, residencies, military service or  
0367 formal graduate study will fulfill their continuing education  
0368 requirements by the nature of their activities and shall not be  
0369 required to fulfill the formal requirements for continuing educa-  
0370 tion while involved in the above training programs.

0371 (d) Commercially sponsored courses shall not constitute ap-  
0372 proved courses for continuing education credit.

0373 (e) Each ~~registered licensed~~ podiatrist shall be responsible  
0374 for keeping a record of attendance for credit in compliance with  
0375 the requirements of continuing education established by this  
0376 section. Such record shall be submitted to the state board of  
0377 healing arts at the time required by subsection (a) of this section.  
0378 ~~The state board of healing arts may waive educational require-~~

0379 ~~ments set forth in subsections (a) and (b) of this section for good~~  
0380 ~~cause shown.~~

0381 Sec. 9. K.S.A. 65-2012 is hereby amended to read as follows:

0382 65-2012. (a) The following fees shall be established by rules and  
0383 regulations adopted by the board and shall be collected by the  
0384 board:

0385 (1) For a license to practice podiatry, issued on the basis of an  
0386 examination, an amount of not more than ~~one hundred fifty~~ \$150  
0387 ~~dollars (\$150). \$300;~~ \_\_\_\_\_

0388 (2) for a license to practice podiatry, issued without exami-  
0389 nation and by endorsement, an amount of not more than ~~one~~ \$150  
0390 ~~hundred fifty dollars (\$150). \$300;~~ \_\_\_\_\_

0391 (3) for a license to practice podiatry, issued upon request of  
0392 an exempt licensee, an amount of not more than ~~\$300;~~ \$150  
\_\_\_\_\_

0393 (4) for an exempt license or renewal of an exempt license, an  
0394 amount of not more than ~~\$300;~~ \$150  
\_\_\_\_\_

0395 (5) for the annual renewal of a license to practice podiatry, an  
0396 amount of not less than ~~fifteen dollars (\$15) or more than fifty~~ \$150  
0397 ~~dollars (\$50). \$300;~~ \_\_\_\_\_

0398 (4)(6) for late renewal of a any license, an amount of not more  
0399 than ~~fifty dollars (\$50). \$500;~~

0400 (7) for reinstatement of a licensee whose license lapsed for  
0401 failure to renew, an amount of not more than \$500;

0402 (5)(8) for a temporary permit, an amount of not more than  
0403 ~~thirty dollars (\$30). \$30;~~

0404 (6)(9) for a temporary license, an amount of not more than  
0405 ~~twenty-five dollars (\$25). \$25;~~

0406 (7)(10) for any examination given by the board, an amount  
0407 equal to the cost to the board of the examination and its admin-  
0408 istration;

0409 (8)(11) for a certified statement from the board that a licensee  
0410 is licensed to practice podiatry in this state, an amount of not  
0411 more than ~~fifteen dollars (\$15). \$15; and~~

0412 (9)(12) for any copy of any license issued by the board, an  
0413 amount of not more than ~~fifteen dollars (\$15) \$15.~~

0414 (b) On or before May 15, of each year, the board shall deter-  
0415 mine the amount of funds that will be required during the next





Kansas Podiatric Medical Association

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

PRESIDENT  
JOSEPH R. LICKTEIG, D.P.M.  
The Bethel Clinic  
201 S. Pine  
Newton, Ks. 67114  
(316) 283-3600

MEMORANDUM

PRESIDENT-ELECT  
RICHARD KRAUSE, D.P.M.  
3109 12th  
Great Bend, Ks. 67530  
(316) 793-6592

DATE: February 23, 1988

SECRETARY-TREASURER  
WARREN W. ABBOTT, D.P.M.  
Medical Arts Bldg., #110  
10th & Home  
Topeka, Ks. 66604  
(913) 235-6900

TO: Senate Committee on Public Health and Welfare  
Room 526-S, Statehouse  
Topeka, Kansas 66603

IN RE: Senate Bill No. 603  
An Act Regulating the Practice of Podiatry

DIRECTOR  
HAROLD COX, D.P.M.  
666 New Brotherhood Bldg.  
Kansas City, Ks. 66101  
(913) 371-0388

CHAIRMAN EHRLICH AND MEMBERS OF THE COMMITTEE:

DIRECTOR  
JOSEPH A. SVOBODA, D.P.M.  
2308 Anderson  
Manhattan, Ks. 66502  
(913) 539-7664

My name is Wayne Probasco. I represent the Kansas Podiatric Medical Association and serve as their Executive Secretary.

IMMEDIATE PAST PRESIDENT  
DR. FRANK K. GALBRAITH, D.P.M.  
758 S. Hillside  
Wichita, Ks. 67211  
(316) 686-2106

I appear here in favor of Senate Bill No. 603.

MEMBER OF ST. BOARD  
OF HEALING ARTS  
DR. HAROLD J. SAUDER, D.P.M.  
209 N. 6th St.  
Independence, Ks. 67301  
(316) 331-1840

This Bill was prepared by Lawrence T. Buening, Jr., General Counsel for the State Board of Healing Arts. The State Board is on record at their December, 1987 Meeting, endorsing the passage of this Bill.

Basically, this Bill does three (3) things:

- 1) It cleans up the language, statutes relating to Podiatrists.
- 2) Changes the word of a "Registered Podiatrist" to a "Licensed Podiatrist", to conform with all of the other professions that are operating under the Board of Healing Arts.
- 3) Confirms the suspension and revocation of Podiatry Licenses to those professions under the State Board of Healing Arts.

Also, this Bill does create a new designation of "Exempt License" in Sec. 4 (g), which is merely an Inactive Practitioner, that for some reason may want to later apply for a regular license; also, new Sec. 6 gives the Board additional powers to assess a civil fine against licensee for violations.

EXECUTIVE SECRETARY  
WAYNE PROBASCO  
615 S. Topeka Avenue  
Topeka, Ks. 66603  
(913) 354-7611

To: Senate Committee on Public Health and Welfare  
Room 526-S, Statehouse  
Topeka, Kansas 66603

CHAIRMAN EHRLICH AND MEMBERS OF THE COMMITTEE:

PAGE 2, February 23, 1988

I have visited with Mr. Buening since the introduction of this Bill and he has advised me that he has discussed this matter at his office, and they recommend the following Amendments, which are acceptable to our Association, they being:

1) Sec. 4. License renewal to be on an annual basis, as it has been in the past.

2) Strike Sec. 4 (h), which would of given the Board power to establish Rules and Regs. with regard to licenses issued on a two (2) year basis.

3) Sec. 8. Is the Continuing Education Statute, which would be changed to allowing the Board by Rules and Regs. to establish critiera for Continuing Education, in place of the statutory language.

4) Sec. 9. Is to change the fee schedule back to what it was originally, \$150.00, not \$300.00, since this would be on a one (1) year basis, and not on a two (2) year basis.

5) Sec.'s 11 through the end of this Bill, Sec. 23. Here only for the reason to comply with the previous stated changes and no law of substance has either been added or deleted.

Attached to this memorandum is a copy of the Summary, Senate Bill No. 603 that I had previously prepared. The written notations on the left hand margin are those recommendations by Mr. Buening, which have been referred to by me in this memorandum.

We are in favor of the passage of this Bill with the recommended Admendments, above set forth.

Respectfully yours,

Wayne Probasco

WP/jw

SUMMARY OF SENATE BILL NO. 603  
Regulating the Practice of Podiatry

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Sec. 1. K.S.A. 65-2002. This Section is amended only clarification and change the word "Registered" to "Licensed" Podiatrists.

Sec. 2. K.S.A. 65-2003. Changes the examinations from semi-annually to discretion of the Board. In Sec. (B) stricts the sentence regarding reciprocity.

Sec. 3. K.S.A. 65-2004. Having to do with examination, changes the wording that passing from a percentage to passing grades as established by the Rules and Regs. of the Board. Under (B) this Sec. is amended whereby anyone failing the examination may have a re-examination in accordance with the Rules and Regs. of the Board.

Sec. 4. K.S.A. 65-2005. Has to do with license renewal. Also, the sections are changed from the word "Registered" to "Licensed". This Section changes license to renewal to be put on a Two (2) year basis. Establishes manner of reinstatement in the event the license has lapsed; also establishes a new sentence where license is renewed, evidence of maintaining a professional liability insurance is required;

(e) Grants to the Board to issue a temporary permit;

(g) Creates the designation of "Exempt License", which is a license to people that previously had a license to practice, but are inactive, and also states as to how the exempt licensee may apply for regular license;

OMIT  
~~(h) Gives the Board power to establish by Rules and Regs. as to how license shall be issued or renewed on a Two (2) year basis.~~

Sec. 5. K.S.A. 65-2006, has to do with revocation and suspension of Podiatrists; (a) gives the Board authority, additionally, to censure a licensee, and thereafter sets out the grounds for revocation and suspension, which have changed very little.

New Sec. 6. This gives the Board additional power to assess a civil fine against a licensee for violations, \$5,000.00 for the first time, \$10,000.00 the second, \$15,000.00, the third.

Sec. 7. K.S.A. 65-2009. Merely changed the word "Registered" to "Licensed".

Sec. 8. K.S.A. 65-2010. This Section deals with Continuing Education. This Statute is the same, only changing the word "Registered" to "Licensed".

Sec. 9. K.S.A. 65-2012. This Section deals with fees charged, basically increasing the fees from \$150.00 to \$300.00. Also, adds a fee for the new area of an exempt licensee, fee of \$300.00.

Sec. 10. K.S.A. 7-1-21-b. This Section has to do with allowing attorney fees in a civil action or failing to render professional services by any health care provider, only the word "Licensed" is added.

Sec. 11. K.S.A. 40-1126. This has to do with reporting claims or actions for malpractice. There is substantially no change here.

Sec. 12. K.S.A. 3401. This has to do with the health care stabilization fund. There is no substantial change there, other than the word "Licensed".

Sec. 13. K.S.A. 60-513 d. Merely a definition of "Health Care Provider". Change word to "Licensed".

Sec. 14. K.S.A. 60-2609. Has to do with Court allowing periodic payments for malpractice judgment, substantial no change other than the paragraph Sec. 16-652812, has to do with the make-up of the State Board of Healing Arts. No change other than the word "Licensed".

Sec. 17. K.S.A. 65-2813. This is the make-up of the State Board of Healing Arts. No change.

Sec. 18. K.S.A. 65-2891. This is the "Good Samaritan Statute". No change, other than the word "Licensed".

Sec. 19. K.S.A. 65-1901, deals with "Physical Therapists", no change other than the word "Licensed".

Sec. 20. Also deals with "Physical Therapists", no change, other than the word "Licensed".

Sec. 21. K.S.A. 65-4909, deals with exempt liability for reviewing and investigation malpractice claims. No change other than the word "Licensed".

Sec. 22. K.S.A. 65-5001, deals with definitions relating to health care. No changes other than the word "Licensed".

Sec. 23. The following Sections are repealed, which are all of those contained in this Bill, nothing else.

February 15, 1988

Wayne Probasco

## BOARD OF HEALING ARTS

OFFICE OF

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 CHARLENE K. ABBOTT, EXECUTIVE SECRETARY  
 LAWRENCE T. BUENING, JR., GENERAL COUNSEL  
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MEMORANDUM

TO: Senate Public Health and Welfare Committee

FROM: Lawrence T. Buening, Jr. *LTB*  
 General Counsel

DATE: February 22, 1988

RE: SENATE BILL NO. 656

Thank you very much for the opportunity to appear and provide testimony on this Bill.

The category of exempt license was created by 1987 S.B. 36. That Bill originated from the Special Committee on Ways and Means following its Interim Legislative Study of Proposal No. 40. Amendments to original S.B. 36 were made by the Senate Committee, the House Committee, the House Committee as a whole, and the Conference Committee.

It is my understanding that S.B. No. 656 has been proposed due to dissatisfaction with the rules and regulations adopted by the Board implementing S.B. No. 36. Copies of these rules and regulations are attached. Particularly, I understand that there is concern that the regulations do not allow exempt license holders to utilize controlled substances and do not specifically deal with the ability of district coroners to be exempt licensees.

To understand the Board's position regarding these rules and regulations, it would be helpful to review some of the history pertinent to exempt licenses.

As I am sure you are all aware, in 1976 the Health Care Stabilization Fund was created. At present, K.S.A. 40-3402 requires all health care providers in this state to have a minimum amount of insurance and also to pay a surcharge to the Health Care Stabilization Fund. K.S.A. 40-3401 defines a health care provider as anyone licensed by the Board. Since the creation of the Health Care Stabilization Fund, the Board, of necessity, has issued "active" or "inactive" licenses based upon the status of the licensee as an active practitioner in this state at the time of renewal.

Original S.B. No. 36 would have exempted as a health care provider under K.S.A. 40-3401 "any person licensed to practice any branch of the healing arts who does not receive any fees or other compensation for any services performed in the practice of any branch of the healing arts and who is not regularly engaged in such practice".

In the hearings held on S.B. No. 36, it was shown that physicians who have retired from active practice were being prohibited from engaging in any practice of the healing arts since it was not feasible for a physician to maintain an active license and pay the medical malpractice insurance costs. Therefore, it was felt that the exempt license category should be created to allow these physicians to provide valuable services in the area of volunteer work, administrative duties, incidental consulting, and a variety of other non-patient care activities.

The Board received rough draft rules and regulations when it met on August 15, 1987. The original rough draft included no restrictions whatsoever on the utilization of prescription drugs. However, at the Board Meeting on August 15th, the Board adopted a motion that the regulations be modified to allow no prescribing by exempt licensees.

The Board had its public hearing on the proposed regulations on October 10, 1987. As a result of testimony taken during that public hearing, the Board referred the regulations for further study. The Board adopted the regulations in their present form at its meeting, December 5th, and the Rules and Regulation Board approved the regulations on a temporary basis December 16th. Thereafter, the Board commenced issuing exempt licenses. There are now twenty-five individuals who hold an exempt license.

You will note in K.A.R. 100-10a-4, that exempt license holders are specifically allowed to provide administrative functions and to provide direct patient care on an infrequent basis when the individuals to whom the care is provided are not charged for the services. On the other hand, this regulation sets forth 5 specific activities which are not to be performed by exempt license holders, one of which being the utilization of controlled substances.

The regulations as drafted do not prohibit exempt license holders from utilizing prescription drugs, but they do prohibit such individuals from utilizing substances which the Legislature has determined to be subject to abuse. It was the feeling of the Board that individuals who have no medical malpractice insurance and are not required to provide continuing medical education as a condition for renewal should be restricted in their utilization of these substances.

As to the issue of whether a district coroner may hold an exempt license, it is the position of the Board that an exempt license holder may perform all administrative functions of a district coroner. However, the Board did not feel that a person who neither has insurance nor is required to obtain any continuing education should be performing autopsies. K.S.A. 19-1033 specifically allows a district coroner to have an autopsy performed by another individual. It was the Board's feeling that an exempt license holder could perform all of the administrative functions of a district coroner, but that at such time as an autopsy is required, the autopsy be performed by an active license holder.

If the Board has not complied with Legislative intent in its adoption of the rules and regulations for exempt licenses, it would seem that there are various avenues available in lieu of the addition of the sentence set forth on page 3 of Senate Bill No. 656. This sentence, if inserted, would allow individuals to perform surgery, charge for services rendered in addition to performing autopsies as a district coroner and prescribing controlled substances.

MEMORANDUM - SB No. 656  
February 22, 1988  
Page 3

This new sentence would also seem to conflict with the preceding sentence which states that an exempt license holder not be regularly engaged in practice or hold oneself out to the public as being professionally engaged. If this committee feels that exempt license holders should be able to utilize controlled substances, then it would seem that either a specific language in that regard could be inserted in the Bill in lieu of the proposed language, or a concurrent resolution could be adopted indicating Legislative intent and urging the Board to modify its regulations in this regard. Similarly, if the Legislature feels the district coroner should be allowed to perform autopsies, then amendments could be made either to the law to specifically allow exempt license holders to serve as district coroners and provide all services in connection therewith, or a concurrent resolution could be adopted urging the Board to modify its rules and regulations so that district coroners specifically qualify for such category of license.

Thank you very much for the opportunity to appear before you and provide this testimony.

bj

ARTICLE 10a-- EXEMPT LICENSE

100-10a-1. Applications. (a) All applications for exempt license shall be submitted upon forms furnished by the board. These forms shall contain the following in plain, legible writing:

- (1) Name in full;
- (2) post office address;
- (3) residence address;
- (4) Kansas license number;
- (5) a statement that applicant does not hold oneself out to the public as being professionally engaged in the practice of the healing arts for which the applicant holds a license;
- (6) a statement that applicant is no longer regularly engaged in the State of Kansas in the branch of the healing arts for which the applicant holds a license;
- (7) a statement describing the professional activities relating to the healing arts in which the applicant intends to engage if issued an exempt license;
- (8) a statement acknowledging that if applicant is issued an exempt license, applicant shall be subject to all provisions of the healing arts act except for complying with requirements of continuing education; and
- (9) a statement acknowledging that if applicant is issued an exempt

**APPROVED**

ATTORNEY GENERAL

By RUNN 9-5-87 Assf.

RECEIVED BY TEL



license, applicant will not be a health care provider, as defined by K.S.A. 40-3401 and amendments thereto, that the applicant will not be required to maintain professional liability insurance in accordance with K.S.A. 40-3401 et seq. and that any services rendered by applicant, while the holder of an exempt license, will not be insured nor covered by the health care stabilization fund.

(b) All applications for exempt license shall be signed, under oath, by the applicant.

(c) All applications for exempt license shall be accompanied by any fee required by K.A.R. 100-11-5.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 1986 Supp. 65-2809, as amended by L. 1987, Ch. 242, Sec. 2; effective, T- 88-52, Dec. 16, 1987 ; effective May 1, 1988.)

**ATTORNEY GENERAL**

NOV 20 1987

**APPROVED BY** *mmw*

**DEPT. OF ADMINISTRATION**

NOV 19 1987

**APPROVED BY** **FBL**

ARTICLE 10a-- EXEMPT LICENSE

100-10a-2. Request for changes. An exempt license holder shall file a written request with the board whenever the nature or extent of the professional activities relating to the healing arts are proposed to be changed from those activities divulged to the board on the application for such license or on any renewal form. The board shall review the request, determine whether the proposed changes affect the eligibility for an exempt license and either grant or deny the request.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 1986 Supp. 65-2809, as amended by L. 1987, Ch. 242, Sec. 2; effective, T-88-52, 12-16-87 ; effective May 1, 1988.)

APPROVED  
ATTORNEY GENERAL  
By R. WALLACE Asst.

ARTICLE 10a-- EXEMPT LICENSE

100-10a-3. Renewal applications. All applications for renewal of exempt license shall be submitted upon forms furnished by the board and shall be accompanied by the fee required by K.A.R. 100-11-5.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 1986 Supp. 65-2809, as amended by L.1987, Ch. 242, Sec. 2; effective, T-88-52, Dec. 16, 1987; effective May 1, 1988.)

ATTORNEY GENERAL

SEP 14 1987

APPROVED BY *JM*

DEPT. OF ADMIN. SER.

STATE OF KANSAS

ARTICLE 10a-- EXEMPT LICENSE

100-10a-4. Criteria (a) Exempt licenses may be issued to qualified applicants if the professional activities of the applicant will be limited to the following:

(1) Administrative functions, including peer review utilization review and expert opinions, which have no impact on the care and treatment provided to the patients whose records or charts are reviewed; and

(2) providing direct patient care services relating to the healing arts on an irregular or infrequent basis to persons who are not charged or liable for the costs of the services.

(b) Applications describing professional activities not included in subsection (a) shall be reviewed by the board on a case-by-case basis to determine the eligibility for an exempt license.

(c) Exempt licenses may not be issued to applicants if the professional activities of the applicant include any of the following:

(1) Maintaining an office or place to regularly meet patients in this state,

(2) providing direct patient care services relating to the healing arts, to persons who are charged or liable for the costs of the services.

ATTORNEY GENERAL

NOV 20 1987

APPROVED BY *MULL*

DEPT. OF ADMINISTRATION

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APPROVED BY FBL

(3) providing direct patient care services of such regularity and frequency as to reasonably constitute the regular practice of the healing arts;

(4) supervising individuals who provide direct patient care services relating to the healing arts or other health care professions; and

(5) prescribing, administering or dispensing any controlled substances as defined in K.S.A. 65-4101(e) and amendments thereto. (Authorized by K.S.A. 65-2865; and implementing K.S.A. 1986 Supp. 65-2809, as amended by L. 1987, Ch. 242, Sec. 2; effective, T-88-52, 12-16-87; effective May 1, 1988.)

ATTORNEY GENERAL

NOV 20 1987

APPROVED BY *MULLS*

DEPT. OF ADMINISTRATION

NOV 20 1987

APPROVED BY *FDL*

ARTICLE 10a-- EXEMPT LICENSE

100-10a-5. Conversion. (a) A holder of an exempt license desiring to become licensed to regularly practice the healing arts within Kansas shall submit a form provided by the board containing identical information to that required of individuals desiring to reinstate a license.

(b) Each holder of an exempt license desiring to become licensed to regularly practice the healing arts within Kansas shall submit proof of continuing education as follows:

(1) If the individual has held the exempt license for less than one year, no continuing education in addition to that which would have been necessary had the exempt licensee continued to hold an active license shall be required;

(2) if the exempt licensee has held the exempt license more than one year but less than three years, the individual must submit evidence of satisfactory completion of a program of continuing education in accordance with the requirements of K.A.R. 100-15-2; and

(3) if the exempt licensee has held the exempt license for more than three years, the applicant must complete a program recommended by the board. (Authorized by and implementing K.S.A. 1986 Supp. 65-2809, as amended by L. 1987, Ch. 242, Sec. 2; effective, T-88-52, 12-16-87; effective May 1, 1988.)

APPROVED

ATTORNEY GENERAL

By RUNNIT-8-57 Asst.

ARTICLE 10a-- EXEMPT LICENSE

100-10a-6. Activities not divulged. (a) The holder of an exempt license shall not engage in any professional activities relating to the healing arts not divulged to the board on the application for exempt license, any renewal application or on a request submitted and approved by the board pursuant to K.A.R. 100-10a-2.

(b) Any departure from subsection (a) may constitute evidence of dishonorable conduct pursuant to K.S.A. 1986 Supp. 65-2836(b) as amended by L. 1987, Ch. 176, Sec. 5 as further amended by L. 1987, Ch. 242, Sec. 3 and any amendments thereto.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 1986 Supp. 65-2809, as amended by L. 1987, Ch. 242, Sec. 2; effective, T-~~88~~-52, 12/16-87; effective May 1, 1988.)

ATTORNEY GENERAL

SEP 14 1987

APPROVED BY *JLM*

DEPT. OF REGISTRATION

SEP 14 1987

APPROVED BY IDL

ARTICLE 11 -- FEES

100-11-5. Exempt license. No fee shall be collected by the board for an exempt license or conversion of an exempt license to a license to practice the healing arts. The fee collected by the board for renewal of an exempt license shall be \$115.00 if received by the date of the expiration of the license and \$150.00 if received within 30 days following the date of expiration.

(Authorized by K.S.A. 65-2865; Implementing K.S.A. 1986 Supp. 65-2809, as amended by L. 1987, Ch. 242, Sec. 2; implementing K.S.A. 65-2852, as amended by L. 1987, Ch. 242, Sec. 4; effective, T-88-52, 12-16-87; effective May 1, 1988.)

ATTORNEY GENERAL

SEP 14 1987

APPROVED BY *JHM*

DEPT. OF ADMINISTRATION

SEP 14 1987

APPROVED BY *[Signature]*



ARTICLE 22 -- DISHONORABLE CONDUCT

100-22-2: Description of professional activities.

(a) Any person applying for an exempt license shall divulge on the application for such license a description of all professional activities related to the healing arts such person intends to perform if issued an exempt license.

(b) Any person holding an exempt license shall, at the time of renewal, divulge on the renewal application all professional activities related to the healing arts such person intends to perform during the renewal period.

(c) Any departure from subsection (a) or (b) may constitute evidence of dishonorable conduct pursuant to K.S.A. 1986 Supp. 65-2836(b) as amended by L. 1987, Ch. 176, Sec. 5 as further amended by L. 1987, Ch. 242, Sec. 2 and any amendments thereto.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 1986 Supp. 65-2836 as amended by L. 1987, Ch. 176, Sec. 5 as further amended by L. 1987, Ch. 242, Sec. 2; effective, T-88-52, 12-16-87; effective May 1, 1988.)

**APPROVED**

ATTORNEY GENERAL

By R. W. T. S. P. Asst.

DEPT. OF PROFESSIONAL REGULATION

APPROVED BY: PDL



## KANSAS MEDICAL SOCIETY

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

February 23, 1988

TO: Senate Public Health and Welfare Committee

FROM: Jerry Slaughter  
Executive Director

SUBJECT: SB 656; Concerning Exempt Licenses

The Kansas Medical Society appreciates the opportunity to comment on SB 656, which this committee introduced at our request.

SB 656 amends that portion of the Healing Arts Act which was enacted last year in the form of 1987 Senate Bill 36, a provision which exempts retiring physicians from the mandatory malpractice insurance requirement as well as the continuing medical education requirement. The intention of that legislation in 1987 was to allow physicians who still had a contribution of make in the form of volunteer work, administrative responsibilities and other patient and non-patient care activities, to do so without having to carry the outrageously high liability insurance required of all physicians by law. A copy of our testimony on 1987 SB 36 is enclosed for your information.

SB 656 would clarify that physicians holding an exempt license would have all the privileges attendant to that branch of the healing arts for which he or she is licensed. This comes about because the Board of Healing Arts, through the rule and regulation process, has placed certain restrictions on what exempt licensees may do. For example, they have prohibited exempt licensees who hold a license to practice medicine and surgery from writing any prescriptions for controlled substances. Notwithstanding the fact that the law did not authorize the Board to place restrictions on licenses, their action simply does not make sense. How can a physician provide a full range of volunteer work upon retirement, if he or she is unable to write certain prescriptions? The way the regulations currently read, presumably a physician holding an exempt license could do surgery, but could not write a prescription for many useful and common medications. Also attached is a copy of a letter we wrote to the Board of Healing Arts in October, when we commented on this same problem during the rule and regulation process.

Obviously, the Board of Healing Arts has a responsibility to properly regulate every person licensed under its jurisdiction. However, we believe in this instance the Board went beyond the authority granted it by the legislature. Consequently, the amendment we are suggesting in SB 656 should make it clear that the arbitrary limitations imposed by the Board on an exempt license are not appropriate. We appreciate your consideration of these remarks and urge you to report the bill favorably. Thank you.

JS:nb

Senate Public Health & Welfare  
February 23, 1988  
Attachment 4

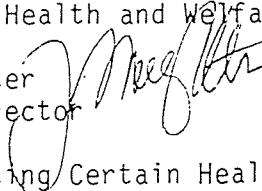


# KANSAS MEDICAL SOCIETY

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

March 26, 1987

TO: House Public Health and Welfare Committee

FROM: Jerry Slaughter  
Executive Director 

SUBJECT: SB 36; Exempting Certain Health Care Providers  
from the Mandatory Malpractice Insurance Requirement

The Kansas Medical Society appreciates the opportunity to comment on SB 36, which exempts certain licensees of the Board of Healing Arts from the mandatory medical malpractice insurance requirement.

The intent of SB 36 is to allow certain physicians who have retired from active practice to maintain their full license so that they can provide a valuable service in the area of volunteer work, administrative duties, incidental consulting and a variety of other activities which require a license to practice medicine. Currently, with malpractice insurance costs so high, it is not feasible for a physician to maintain an active license even though many of the activities described above require that a licensee have a full license in order to provide such services. It is important to note that SB 36 does not exempt physicians or the organizations they volunteer or work for from liability. The bill merely exempts such licensees from the mandatory insurance, as well as the continuing education requirements as specified by the Board. Physicians affected by this bill may choose to carry insurance purchased on the private market, or have it provided by the organizations that employ them. However, enactment of this legislation would remove the necessity to buy the required primary limits, as well as contribute to the Health Care Stabilization Fund.

The bill accomplishes its purpose by creating an "exempt" license issued by the Board of Healing Arts to physicians who are no longer regularly engaged in the practice of medicine, and who do not hold themselves out to the public as being professionally engaged in the practice of medicine. The bill, obviously, gives the Board the discretion and flexibility to issue exempt licenses based on each individual physician's application.

We would like to suggest one amendment, which was really an oversight and should have been dealt with earlier. We believe the bill should take effect upon publication in the Kansas Register, instead of July 1, so that some physicians could actually apply for and possibly receive an exempt license during this renewal period.

We think this legislation is an excellent solution to the problem faced by many physicians who would like to remain productive in certain limited activities, but are unable to do so because of the malpractice laws. We urge your favorable consideration of SB 36, with the amendment mentioned above. Thank you for the opportunity to appear, and we appreciate your consideration of these comments.

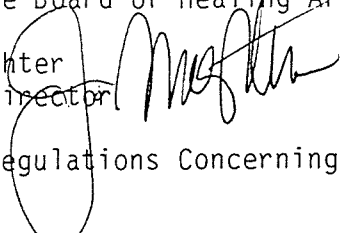
JS:nb



KANSAS MEDICAL SOCIETY

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

October 7, 1987

TO: Kansas State Board of Healing Arts  
FROM: Jerry Slaughter  
Executive Director   
SUBJECT: Rules and Regulations Concerning Exempt Licenses

The Kansas Medical Society appreciates the opportunity to offer these brief comments about the rules and regulations implementing the provisions of SB 36 relating to exempt licenses.

Generally, we are in agreement with the intent of the regulations, but we do take issue with two important sections as follows:

Article <sup>10a-1(10)</sup>~~10a(10)~~. This regulation requires that an exempt licensee must notify each person to which professional services are rendered that the licensee is not insured by the Health Care Stabilization Fund. We believe this regulation is unnecessary, impractical, and not authorized by the statute. First, there is no similar obligation on all other health care professionals or other licensed professionals by the state to notify any person to whom they render services whether or not they are insured. The fact that the licensee has already signed an affidavit acknowledging that they are not covered by the HCSF, in our opinion is sufficient. Further, it is impractical for a physician doing administrative functions, for example, to notify every person or entity he or she comes in contact with that he or she is not insured by the HCSF. We would recommend this regulation be deleted entirely.

Article 10a-4. Criteria. The issue in this regulation with which we take strong exception is the prohibition on prescribing drugs found in 10a-4(c)(4). This prohibition is inappropriate for two reasons: One, during the consideration of this legislation it was specifically pointed out on many occasions that the legislation should be broad so as not to limit the activities a physician may engage in with an exempt license. The only restriction in the law

is that the holder of an exempt license be "no longer regularly engaged in such practice and who does not hold oneself out to the public as being professionally engaged in such practice." Simply put, the Board does not have statutory authority to pick and choose which services they may prohibit an exempt licensee from performing. As the regulation is currently written, an exempt licensee would be prohibited from prescribing a cold medication to an indigent patient in a free clinic on a volunteer basis, but presumably that same physician would be able to do surgery, since it is not prohibited by the regulations.

The point here is that the legislature specifically did not prohibit any activities, since it wanted to encourage physicians to stay active and provide professional services on a volunteer basis, for example. The prohibition on prescribing drugs is clearly not authorized in this statute and should be deleted from the draft regulations.

Thank you for the opportunity to offer these comments, and if you have any questions we would be happy to respond.

JS:nb

TESTIMONY ON SB 660  
TO  
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE  
BY  
KANSAS DEPARTMENT ON AGING  
FEBRUARY 23, 1988

Bill Summary:

Act would reduce the number of members on the State Advisory Council on Aging from 19 to 15.

Bill Brief:

Amendments to K.S.A. 75-5911 would

1. Reduce number of members appointed by Governor from 15 to 11;
2. Number of legislative appointees (4) would not change;
3. Remove requirement that majority of Council members be senior citizens;
4. Reduce number of licensed adult care home administrators on the Council from 2 to 1;
5. Remove requirement that at least one member represent each Planning and Service Area in the State.

Bill Testimony:

The Kansas State Advisory Council on Aging serves as advocate on behalf of more than 400,000 Older Kansans. As an advisory committee to the Governor and the Department on Aging, the Council is responsible for reviewing all programs, services and facilities provided to Older Kansans by public, private, local and state agencies. The Secretary of the Kansas Department on Aging consults with the Advisory Council regarding the operations of the Department, and the Council's recommendations are closely adhered to.

Created in 1977 by the Kansas Act on Aging, K.S.A. 75-5901, et seq., the State Advisory Council currently consists of 19 members. The Governor appoints 15 of the members and the Kansas State Senate President, Senate Minority Leader, Speaker of the House, and House Minority Leader each name one member to the Council. While appointments to the Council are for three years, legislative appointees serve at the discretion of the legislative leadership who appoint them. Members are eligible for reappointment. The Governor designates the chairperson who serves at the Governor's pleasure. A vice-chairperson and secretary are elected by Council members.

The 1987 Legislature eliminated \$11,612 in funding for the 19-member State Advisory Council from the Department on Aging's budget. Therefore, since last year, the Department has had a Council with no funds appropriated to meet the expenses of their meetings, which are held four times per year.

The Advisory Council on Aging is a respected entity in the State's Aging Network. The Department on Aging believes the Council should be permitted to continue and that funding should be allocated to provide reimbursement of members' travel to council meetings.

However, the Department is aware of the financial constraints the State of Kansas currently faces. In order that the Advisory Council may continue and council members may be reimbursed while at the same time saving State revenue, the Department recommends a reduction in membership of the Council from the current 19 members to 15. The change would reduce the number of Governor's appointees from 15 to 11; the number of legislative appointees would remain at 4. Members of the Advisory Council on Aging in attendance at their December, 1987 meeting voiced approval of this reduction of the Council's membership. It was their belief that it would be easier to obtain funding for the Council if its size was reduced.

Another amendment to K.S.A. 75-5911 which SB 660 would enact would be removal of the requirement that the majority of Council members be senior citizens. The Department on Aging believes that this requirement may be somewhat prohibitive in appointing persons to the Council who are very interested in aging issues and concerns but who have not yet reached age 60. The removal of this requirement would simply allow more flexibility in appointing Council members.

The only other major change which SB 660 would enact would be removal of the requirement that at least one member of the Council represent each of the eleven Planning and Service Areas. These PSAs correspond to the state's Area Agencies on Aging. In the past, it has sometimes been difficult to fill vacancies on the Council using the PSA requirement. The language in Section 1(a) of SB 660 does state that "insofar as possible different geographical, social and ethnic groups" shall be represented on the Council. Therefore the geographic factor will still be considered at time of appointment of members to the Council.

Recommended Action:

The Kansas Department on Aging supports SB 660 and encourages this Committee's favorable passage of it. An amount of \$6,287 has been included in the Governor's recommended KDOA budget for per diem and travel for a 15-member Advisory Council on Aging for FY 89.

SW:mj  
6.2006  
2/88

Senator Erlich: Thank you for allowing me to testify today. My name is Helen R. Miller and I am a registered lobbyist for the National Council on Aging.

I would like to speak to Senate Bill 660. I am a member of the State Advisory Council. For the most part I support this bill. I am encouraged to see that Governor Mike Hayden recognizes the importance of the our Older Adult population as a viable part of our society.

However, I must take issue with two of the recommended changes. I firmly believe that the State Advisory Council should be representative of their peers and I would be distressed to see that majority ratio on this council diminished as redefined in this bill.

As I travel the state I find the backlash continues by the younger generation towards our older population. Our older adults often share with me their dismay when the "Younger Generation" tells them how it is to be old" As our older population continues its upward growth, I doubt if this feeling will change. Our older adults must have have a strong say in their future. I would recommend that the bill be amended to read... AT LEAST ONE HALF OF THE COUNCIL MEMBERS SHALL BE 60 YEARS OF AGE OR OLDER.

I was disappointed to see that equal representation with a representative from each planning service area has been deleted. If this is impossible to implement, I strongly urge that every effort be made to insure representation of each geographical area. Kansas communities are so diverse they must have the support due them.

Thank you for your consideration, I urge t  
bill with my recommendations for amendmen

Senate Public Health & Welfare  
February 23, 1988  
Attachment 6