

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 27, 1989 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Chairman called attention to Discussion and Action to be taken on bills this date.

DISCUSSION BEGAN ON SB 60.

Chair recognized Mr. Furse who had drawn proposed amendments per requests of members, (Attachment No.1). Mr. Furse detailed these amendments, noting the testimony from Department on Aging, i.e., need specific authority for entering into a contract making grants and establishing fees on a sliding scale basis. As an example of language to be used, Mr. Furse provided hand-out, (Attachment No.2) the language that was used in Older Kansans Employment programs. He noted too there was a need to change language in title of SB 60 as detailed in Attachment No.2.

Chair asked for discussion in regard to amendments proposed.

Rep. Shallenburger moved to amend SB 60 as detailed by Mr. Furse as per Attachments No. 1, No.2). Motion seconded by Rep. Weimer. No discussion, vote taken, motion carried.

Rep. Shallenburger stated he would recommend an amendment, (Attachment No.3) , noting the Secretary on Aging had outlined provisions that would be addressed under set Rules and Regs already established, i.e., 50-50 Match; type of services provided; pilot projects. He noted that earlier this year several had requested for a bill in Appropriations Committee for Adult Care. This amendment he proposed today for SB 60, is the same Adult Care language. He detailed the amendment, also noting it does not provide for medical services; has the same fiscal note for the first year as provided earlier; each year thereafter services will increase as funds are increased.

Rep. Shallenburger made a motion to amend SB 60 as he had outlined and as described in detail in Attachment No. 3, seconded by Rep. Weimer. Discussion continued. Vote taken, motion carried.

On SB 60 as a whole, Rep. Cribbs moved to pass it out favorably as amended, seconded by Rep. Hochhauser. No discussion. Vote taken, motion carried.

DISCUSSION BEGAN ON SB 287.

Chair recognized Mr. Furse who had drawn proposed amendments per commendation of Staff of a technical matter. Mr. Furse detailed the balloon, (Attachment NO. 4). Explanations of what a teaching hospital is, also, whether of not persons here for a short period of time to study medical techniques would be covered by a health care provider.

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 27, 19 89

DISCUSSION ON SB 287 CONTINUED:-

Mr. Furse continued explanation of balloon, i.e., noting in order to cover those persons under the Health Care Stabilization Act, he would recommend that K.S.A. 40-3401 be amended to specifically make these persons a Health Care Provider for purposes of that Act.

Discussion ensued. There were questions in regard to a person being involved in a 2 week training program, on how could they be in and out again of the Stabilization Fund and still comply with Fund requirements; be covered by the umbrella clause; had the Insurance Commissioner been contacted in this regard. Some policies transfer from State to State for coverage of individuals coming in for training, while other policies do not. Numerous questions and concerns were discussed.

Chair noted at this time he would request Staff members to try to come up with some language that would clarify requests Board of Healing Arts have made. Chair stated this date we will pass over **SB 287**, and discuss it further at meeting tomorrow.

DISCUSSION BEGAN ON SB 23.

Chair invited Mr. Furse to explain balloon on SB 23, (Attachment No. 5). Mr. Furse gave a detailed explanation of the reconciling items that are needed for technical purposes, questions and concerns raised by committee members, i.e., a change made in the title in regard to transmitting prescription orders by certain persons; beginning on line 78 in regard to written protocol, he made recommendation to insert, "for each classification of disease or injury for which the advanced registered nurse practitioner is authorized to transmit prescription orders and shall specify". (See Attachment No.5). He further noted inserting new language, Page 3, line 83, as detailed in (Attachment No.5).

Discussion followed in regard to protocol, i.e., would there be standards set down, or would that depend on each individual physician. Each physician would develop his own protocol to fit diagnosis. Discussion on protocol transmitted by ARNP's and PA's being alike which would serve to uniform this process for the pharmacist. Ms. Correll and Mr. Furse detailed language in Statutes, (Attachment No.6), which would make this process the same for both ARNP's and PA's. Discussion ensued, i.e., Board of Nursing checks the ARNP's, and the Board of Healing Arts checks the PA's to see that the written protocols have been done properly according to requirements. Pharmacy Board does not check or inspect, but have control over the Pharmacist who fills the prescription ordered by protocol. It was noted we need to make changes to convert this process to a positive formulary.

Rep. Green moved to amend **SB 23** by inserting language in balloon detailed by Mr. Furse, (Attachment No. 5, and to further amend by including language in (Attachment No. 6), which will conform statutes for ARNP's and PA's. Motion seconded by Rep. Wells, motion carried.

Rep. Branson moved **SB 23** be reported favorably as amended, seconded by Rep. Flower. No discussion, vote taken, motion carried.

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 27, 1989.

CHAIR DREW ATTENTION TO SUB-SB 181 and SB 293:---

Discussion ensued, i.e., line 115 should have a typo corrected to spell the drug, "stanazolol", and it was determined since Sub 181 addresses the same subject as does SB 293, (in part), it could be amended into SB 293, with SB 293 being the prevailing bill.

Rep. Weimer moved to amend Sub. SB 181 to correct spelling of drug to "stanazolol", and then to amend it into SB 293. Motion seconded by Rep. Wiard, motion carried.

On the bill as a whole, Rep. Buehler moved to pass SB 293 favorably out of committee as amended, seconded by Rep. Flower, motion carried.

CHAIR DREW ATTENTION TO SB 15.

It was noted by Mr. Furse the title of the bill would need to be amended in regard to a technical point, referencing to certain suspending of certain statutes indicated in Section (4) of SB 15.

Representative Sader moved to amend SB 15 by amending the title of bill as suggested as was technically necessary, seconded by Rep. Cribbs. No discussion. Vote taken, motion carried.

On the bill as a whole, Rep. Wells moved to pass SB 15 out favorably as amended, seconded by Rep. Cribbs. No. discussion, vote taken, motion carried. Representative Shallenburger recorded as NO vote.

CHAIR DREW ATTENTION TO SB 183.

Lengthy discussion was held on numerous points, i.e., no, Physicians' Assistant's (PA's) do not have the authority to function independently, they are to function only under the supervision of a responsible physician; a Registered Nurse (RN) can practice nursing independently; sometimes the nursing and medical services overlap; physician retains the liability for the PA; many PA's came out of the Military Service who had served as Corpmen; the examination taken by the PA's is a National exam. The education of a PA was discussed, i.e., requirement is a two year program at Wichita State University. Discussion continued, i.e., fee charges should be increased was the feeling from the Board of Healing Arts; SB 183 is trying to place the responsibility of the PA on the physician.

Rep. Foster made a motion to hold over SB 183 until the Board of Healing Arts and the PA's can have a dialogue and reach some common ground, motion seconded by Rep. Shumway. Discussion continued, i.e., perhaps an Advisory Council would be helpful; statutory max on fees has been reached at \$10.00.

Vote taken, chair in doubt, show of hands indicates 8 in favor to hold over SB 183, 8 against. Chair then voted yes,, making vote 9 in favor, 8 against, motion carried.

May it be noted (Attachment No. 7) is a letter from Dr. Lois Scibetta in regard to SB 182 that was distributed to all members this date.

Meeting adjourned.

Proposed Amendment Senate Bill No. 60

Be amended:

On page 1, in line 36, by striking "the department on"; by striking all of lines 41 and 42 and inserting in lieu thereof the following:

"(b) In establishing a program of in-home care services under subsection (a), the secretary of aging may:

(1) Make grants to and enter into contracts with individuals, agencies, organizations, public bodies, corporations and other entities;

(2) fix, charge and collect fees for services provided as part of such program, such fees to be fixed on a sliding scale based on the recipient's ability to pay for the services;

(3) adopt rules and regulations necessary to establish the program under this section and to administer the provisions of such program; and

(4) take such other action as may be necessary to carry out the provisions of this section.";

Also on page 1, in the title, lines 19 and 20, by striking "department on aging" and inserting in lieu thereof "secretary of aging"

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(6) develop a handbook of information to answer requests and for further referral.

(c) Upon written notification by the secretary of aging, every adult care home, as defined in subsection (a)(1) of K.S.A. 39-923, title XX adult residential home licensed under K.S.A. 75-3307b, recuperation center, as defined in subsection (g) of K.S.A. 65-425, intermediate care facility, as defined in section 1905(c) of the federal social security act, skilled nursing facility, as defined in section 1861(j) of the federal social security, and any other institution or facility which is licensed or certified by the state, which offers health, social or dietary care to elderly persons on a regular basis, and which is financed in whole or in part by funds from the federal government, the state of Kansas, or any political subdivision thereof, shall prominently display notice of the existence of the toll-free telephone system established under this section and the telephone number of such system.

History: L. 1980, ch. 259, § 1; July 1.

75-5924. Older Kansans employment programs; location; grants and contracts; design of program; "older Kansan" defined.

(a) The secretary of aging shall establish in accordance with the provisions of this section three older Kansans employment programs. One program shall be established in a city which is a major population center of the state, one program shall be established in a city which in population is intermediate in size and one program shall be established in a city which in population is small in size. The secretary of aging may make grants to and enter into contracts with nonprofit agencies or organizations or public bodies for the purpose of providing for the development and operation of the various older Kansans employment programs.

(b) The older Kansans employment programs shall be designed as follows:

(1) The programs shall provide to older Kansans an employment placement service with emphasis on employment in the private sector for shared jobs, flex-time and part-time jobs; and

(2) The programs shall provide training in job seeking skills to potential employees who are older Kansans and assistance to potential employers in utilizing the contributions of older Kansans to their work force.

(c) The secretary of aging shall prepare annually a report evaluating the effectiveness of the older Kansans employment programs and recommending measures to increase the number of older Kansans gainfully employed. The report shall be prepared and made available annually to the governor, members of the legislature, the secretary of human resources and the members of the advisory council on aging no later than December 15 in any year.

(d) As used in this section, "older Kansan" means a resident of the state of Kansas who is 55 years of age or older.

History: L. 1982, ch. 333, § 1; July 1.

Article 60.—KANSAS SMALL BUSINESS PROCUREMENT ACT

Cross References to Related Sections:

Division of purchases, department of administration, see 75-3737a et seq.

75-6001. Short title. This act may be cited as Kansas small business procurement act.

History: L. 1978, ch. 354, § 1; July 1.

75-6002. Policy; fair proportion of state purchases and contracts placed with small businesses. Because the existence of a strong and healthy free enterprise system is directly related to the well-being and competitive strength of small businesses and to the opportunity for these small businesses, including those owned and operated by minority persons, to have free entry into business, to grow and to prosper, it is declared to be the policy of this state to ensure that a fair proportion, at least but not limited to ten percent (10%), of the total dollar amount of purchases of and contracts for property and services for the state (including but not limited to supplies, materials, equipment, maintenance, contracted services, repair services and construction) be placed with small businesses. Each state agency shall participate to the extent possible in carrying out this policy.

History: L. 1978, ch. 354, § 2; July 1.

75-6003. Definitions. As used in this act, unless the context clearly requires otherwise, the following words and phrases shall have the meanings respectively ascribed to them in this section:

(a) "Small business" means a business which is independently owned and

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Proposed Amendment Senate Bill No. 60

Be amended:

On page 1, by striking all of lines 35 to 42, inclusive; preceding line 43, by inserting the following:

"Sec. 3. (a) Within the limits of appropriations therefor, the secretary of aging shall establish and administer, pursuant to the provisions of this act, a program of in-home and community support services for adults with alternate long-term-care needs. The secretary shall designate area agencies on aging to administer the program in their respective geographic areas. The secretary shall designate an area agency on aging only after the area agency on aging has submitted an acceptable program plan. The plan must be developed with support and approval of a local or regional coordinating committee comprised of representatives of senior organizations, home health agencies and health departments, department of social and rehabilitation services offices and other interested groups.

(b) The program of in-home and community support services for adults with alternate long-term care needs shall be implemented on a schedule as follows: During the first year the program shall consist of three pilot locations for the provision of homemaker services and personal care services; during the second year the program shall be expanded to additional locations as may be consistent with appropriations therefor and shall consist of the services offered the first year plus transportation for care and chore services; during the third year the program shall be expanded to additional locations as may be consistent with appropriations therefor and shall consist of services offered the first and second years plus care management services; and during the fourth year of the program and each year thereafter the program shall provide state-wide coverage and

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shall consist of all services offered during the third year and such other in-home and community support services as may be approved by the secretary.

Sec. 4. All funds granted to an area agency on aging under this act shall be matched with funds from other than the federal or state government on a dollar-for-dollar basis. Client fees may be used to meet this requirement.

Sec. 5. Funds for purchase of service under this act shall be spent only when other sources of support for service provision are not available. The funds shall not replace medicaid, older Americans act, community services block grant, medicare and other state or federal funding sources that may be used to pay for needed services.

Sec. 6. Funds shall only be granted to area agencies on aging based on plans approved by the secretary.

Sec. 7. A screening and assessment mechanism shall be established to be used for establishing every client's need for services, for a single entry point and for case management.

Sec. 8. The secretary shall adopt rules and regulations to govern:

- (a) The eligibility of persons receiving the services;
- (b) the level of payments to providers and funds spent for each client;
- (c) sliding fee scales based on ability to pay for services provided under this act;
- (d) reports to be made to the secretary by the area agencies on aging; and
- (e) such other matters as the secretary deems necessary for the administration of this act.

Sec. 9. Plans shall not be found acceptable unless they contain:

- (a) Evidence of approval by a broadly representative committee of representatives of the geographic area to be served;
- (b) identification of services to be developed in accordance with the schedule of services under subsection (b) of

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section 3 and service providers to be reimbursed for services;

(c) for services the area agency on aging proposes to perform directly, evidence acceptable to the secretary that another service provider is not available; and

(d) a means acceptable for selecting clients who are most in need of the program's benefits.

Sec. 10. (a) The secretary shall develop, wherever practicable, sliding fee scales based on people's ability to pay for in-home and community support services provided pursuant to this act.

(b) The secretary may approve use of funds for any of three purposes:

(1) To purchase services;

(2) to defray start-up expenses of providers of needed and insufficiently provided services;

(3) to administer the program.

(c) Area agencies on aging may purchase services for adults with long-term-care needs through purchase of service contracts, vendor payments or direct client grants preferably to existing local service providers.

Sec. 11. Area agencies on aging which participate in this program shall develop a screening mechanism for all people who apply for services and shall develop assessment of needs, assessment of functional abilities and environmental supports for those whose screening shows need for such assessment. A care plan and case management shall be established in accordance with the schedule of services under subsection (b) of section 3. This care plan shall be based on the assessment results and recommend services and actions both paid and unpaid providers of support should take. The area agencies on aging shall negotiate and broker for services either by themselves or through other agencies for adults in need of such services.

Sec. 12. (a) The secretary shall evaluate the effectiveness of the program implemented pursuant to this act. Such evaluation shall include data on number of clients screened, assessed,

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evaluated and found to be in need of institutional and noninstitutional services, number referred to different services and the costs per client. The secretary shall quantitatively and qualitatively assess the cost effectiveness of the program. The secretary shall present a draft of the evaluation report to the interagency coordinating committee for comments.

(b) The evaluation in accordance with requirements of this section shall be prepared by the secretary and made available, along with the interagency advisory committee's comments, to the governor and to members of the legislature no later than December 31, 1989, and December 31 of each succeeding year during which the program is in effect.

Sec. 13. The secretary may apply for and receive other funds, as appropriate, for the program established under this act.";

'Also on page 1, in line 43, by striking "4" and inserting in lieu thereof "14";

Also on page 1, in the title, lines 19 and 20, by striking "department on" and inserting in lieu thereof "secretary of"; in line 21, preceding the period by inserting the following: "; providing for requirements for and limitations on such program; providing for the administration of the program"

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SENATE BILL No. 287

By Committee on Public Health and Welfare

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AN ACT concerning the Kansas healing arts act; creating a temporary education license.

; amending K.S.A. 1988 Supp. 40-3401 and repealing the existing section

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

Section 1. (a) There is hereby created a designation of temporary education license. This license may be issued by the board to any person who: (1) Holds a degree from an accredited school of medicine or an accredited school of osteopathy; (2) is licensed to practice medicine and surgery in another state, territory, the District of Columbia or another country; and (3) is enrolled in a continuing medical education program conducted by the University of Kansas school of medicine or [an] accredited continuing medical education program offered [by a teaching hospital affiliated with the university of Kansas school of medicine].

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(b) The chief administrative officer of the university of Kansas school of medicine or of the teaching hospital shall apply to the state board of healing arts on behalf of the person seeking a temporary education license upon forms approved by the board.

(c) The temporary education license shall confer upon the holder the right and privilege to practice medicine and surgery and shall obligate the holder to comply with all requirements of such license but no fee may be charged for the services of the holder.

(d) The temporary education license shall be valid only during the period in which the holder is enrolled in a continuing medical education program offered by the university of Kansas school of medicine or an accredited continuing medical education program offered [by a teaching hospital affiliated with the university of Kansas school of medicine], and such license shall be valid only for the practice of medicine and surgery required to fulfill the requirements

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of the continuing medical education program.

(e) The fee for a temporary education license shall be established by the state board of healing arts by rules and regulations in an amount not to exceed \$25.

(f) This section shall be part of and supplemental to the Kansas healing arts act.

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

Sec. 2. Amend K.S.A. 1988 Supp 40-3401 to include persons holding a temporary education license under the health care provider insurance availability act.

Sec. 3. K.S.A. 1988 Supp. 40-3401 is hereby repealed.

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SENATE BILL No. 23

By Joint Committee on Administrative Rules and Regulations

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AN ACT concerning prescription orders for medication; relating to persons authorized to issue prescription orders; amending K.S.A. 65-1130 and 65-4101 and K.S.A. 1988 Supp. 65-1626 and repealing the existing sections.

providing for the transmitting of prescription orders by certain persons

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

Section 1. K.S.A. 65-1130 is hereby amended to read as follows: 65-1130. (a) No professional nurse shall announce or represent to the public that such person is an advanced registered nurse practitioner unless such professional nurse has complied with requirements established by the board and holds a valid certificate of qualification as an advanced registered nurse practitioner in accordance with the provisions of this section.

(b) The board shall establish standards and requirements for any professional nurse who desires to obtain a certificate of qualification as an advanced registered nurse practitioner. Such standards and requirements shall include, but not be limited to, standards and requirements relating to the education and training of advanced registered nurse practitioners. The board may require that some, but not all, types of advanced registered nurse practitioners hold an academic degree beyond the minimum educational requirement for qualifying for a license to practice as a professional nurse. The board may give such examinations and secure such assistance as it deems necessary to determine the qualifications of applicants.

(c) The board shall adopt rules and regulations applicable to advanced registered nurse practitioners which:

(1) Establish categories of advanced registered nurse practitioners which are consistent with nursing practice specialties recognized by the nursing profession.

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45 (2) Establish education, training and qualifications necessary for
 46 certification for each category of advanced registered nurse practi-
 47 tioner established by the board at a level adequate to assure the
 48 competent performance by advanced registered nurse practitioners
 49 of functions and procedures which advanced registered nurse prac-
 50 titioners are authorized to perform.

51 (3) Define the expanded role of advanced registered nurse prac-
 52 titioners and establish limitations and restrictions on such expanded
 53 role. The board shall adopt a definition of expanded role under this
 54 subsection (c)(3) which is consistent with the education, training and
 55 qualifications required to obtain a certificate of qualification as an
 56 advanced registered nurse practitioner, which protects the public
 57 from persons performing functions and procedures as advanced reg-
 58 istered nurse practitioners for which they lack adequate education,
 59 training and qualifications and which authorizes advanced registered
 60 nurse practitioners to perform acts generally recognized by the
 61 profession of nursing as capable of being performed, in a manner
 62 consistent with the public health and safety, by persons with post-
 63 basic education in nursing. In defining such expanded role the board
 64 shall consider: (A) The training and education required for a certif-
 65 icate of qualification as an advanced registered nurse practitioner;
 66 (B) the type of nursing practice and preparation in specialized prac-
 67 titioner skills involved in each category of advanced registered nurse
 68 practitioner established by the board; (C) the scope of practice of
 69 nursing specialties and limitations thereon prescribed by national
 70 organizations which certify nursing specialties; and (D) acts recog-
 71 nized by the nursing profession as appropriate to be performed by
 72 persons with postbasic education and training in nursing. *An ad-
 73 vanced registered nurse practitioner may not prescribe drugs
 74 but may transmit prescription orders in accordance with the
 75 pharmacy act of the state of Kansas.*

76 (d) *An advanced registered nurse practitioner may not prescribe
 77 drugs but may transmit prescription orders pursuant to a written
 78 protocol as authorized by a responsible physician. Each written
 79 protocol shall contain a precise and detailed medical plan of care
 80 which specifies all drugs which may be transmitted by the advanced
 81 registered nurse practitioner. In no case shall the scope of authority*

for each classification of disease or injury for which
 the advanced registered nurse practitioner is authorized
 to transmit prescription orders and shall specify

82 of the advanced registered nurse practitioner exceed the normal and
83 customary practice of the responsible physician. [For the purposes
84 of this subsection, "responsible physician" means a person licensed
85 to practice medicine and surgery who has accepted responsibility for
86 the protocol and the actions of the advanced registered nurse prac-
87 titioner involving the transmitting of prescription orders.

88 Sec. 2. K.S.A. 1988 Supp. 65-1626 is hereby amended to read
89 as follows: 65-1626. For the purposes of this act:

90 (a) "Administer" means the direct application of a drug, whether
91 by injection, inhalation, ingestion or any other means, to the body
92 of a patient or research subject by:

93 (1) A practitioner or pursuant to the lawful direction of a prac-
94 titioner, or

95 (2) the patient or research subject at the direction and in the
96 presence of the practitioner.

97 (b) "Agent" means an authorized person who acts on behalf of
98 or at the direction of a manufacturer, distributor or dispenser but
99 shall not include a common or contract carrier, public warehouseman
100 or employee of the carrier or warehouseman when acting in the
101 usual and lawful course of the carrier's or warehouseman's business.

102 (c) "Board" means the state board of pharmacy created by K.S.A.
103 74-1603 and amendments thereto.

104 (d) "Brand exchange" means the dispensing of a different drug
105 product of the same dosage form and strength and of the same
106 generic name than the brand name drug product prescribed.

107 (e) "Brand name" means the registered trademark name given
108 to a drug product by its manufacturer, labeler or distributor.

109 (f) "Deliver" or "delivery" means the actual, constructive or at-
110 tempted transfer from one person to another of any drug whether
111 or not an agency relationship exists.

112 (g) "Dispense" means to deliver prescription medication to the
113 ultimate user or research subject by or pursuant to the lawful order
114 of a practitioner.

115 (h) "Dispenser" means a practitioner or pharmacist who dispenses
116 prescription medication.

117 (i) "Distribute" means to deliver, other than by administering or
118 dispensing, any drug.

An advanced registered nurse practitioner certified in the category of registered nurse anesthetist while functioning as a registered nurse anesthetist under K.S.A. 1988 Supp. 65-1151 to 65-1164, inclusive, and amendments thereto, shall be subject to the provisions of K.S.A. 1988 Supp. 65-1151 to 65-1164, inclusive, and amendments thereto, with respect to medications and anesthetic agents and shall not be subject to the provisions of this subsection.

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- 119 (j) "Distributor" means a person who distributes a drug.
- 120 (k) "Drug" means: (1) Articles recognized in the official United
- 121 States pharmacopoeia, or other such official compendiums of the
- 122 United States, or official national formulary, or any supplement of
- 123 any of them; (2) articles intended for use in the diagnosis, cure,
- 124 mitigation, treatment or prevention of disease in man or other an-
- 125 imals; (3) articles, other than food, intended to affect the structure
- 126 or any function of the body of man or other animals; and (4) articles
- 127 intended for use as a component of any articles specified in clause
- 128 (1), (2) or (3) of this subsection; but does not include devices or their
- 129 components, parts or accessories, except that the term "drug" shall
- 130 not include amygdalin (laetrile) or any livestock remedy, as defined
- 131 in K.S.A. 47-501 and amendments thereto, if such livestock remedy
- 132 has been registered in accordance with the provisions of article 5 of
- 133 chapter 47 of the Kansas Statutes Annotated.
- 134 (l) "Generic name" means the established chemical name or of-
- 135 ficial name of a drug or drug product.
- 136 (m) (1) "Institutional drug room" means any location where pre-
- 137 scription-only drugs are stored and from which prescription-only
- 138 drugs are administered or dispensed and which is maintained or
- 139 operated for the purpose of providing the drug needs of:
 - 140 (A) Inmates of a jail or correctional institution or facility;
 - 141 (B) residents of a juvenile detention facility, as defined by the
 - 142 Kansas code for care of children and the Kansas juvenile offenders
 - 143 code;
 - 144 (C) students of the Kansas college of technology, a public or
 - 145 private university or college, a community college or any other in-
 - 146 stitution of higher learning which is located in Kansas; or
 - 147 (D) employees of a business or other employer.
- 148 (2) "Institutional drug room" does not include:
 - 149 (A) Any registered pharmacy;
 - 150 (B) any office of a practitioner; or
 - 151 (C) a location where no prescription-only drugs are dispensed
 - 152 and no prescription-only drugs other than individual prescriptions
 - 153 are stored or administered.
- 154 (n) "Medical care facility" shall have the meaning provided in
- 155 K.S.A. 65-425 and amendments thereto, except that the term shall

156 also include facilities licensed under the provisions of K.S.A. 75-
157 3307b and amendments thereto except community mental health
158 centers and facilities for the mentally retarded.

159 (o) "Manufacture" means the production, preparation, propaga-
160 tion, compounding, conversion or processing of a drug either directly
161 or indirectly by extraction from substances of natural origin, inde-
162 pendently by means of chemical synthesis or by a combination of
163 extraction and chemical synthesis and includes any packaging or
164 repackaging of the drug or labeling or relabeling of its container,
165 except that this term shall not include the preparation or compound-
166 ing of a drug by an individual for the individual's own use or the
167 preparation, compounding, packaging or labeling of a drug by: (1)
168 A practitioner or a practitioner's authorized agent incident to such
169 practitioner's administering or dispensing of a drug in the course of
170 the practitioner's professional practice; (2) a practitioner, by a prac-
171 titioner's authorized agent or under a practitioner's supervision for
172 the purpose of, or as an incident to, research, teaching or chemical
173 analysis and not for sale; or (3) a pharmacist or the pharmacist's
174 authorized agent acting under the direct supervision of the phar-
175 macist for the purpose of, or incident to, the dispensing of a drug
176 by the pharmacist.

177 (p) "Person" means individual, corporation, government, govern-
178 mental subdivision or agency, partnership, association or any other
179 legal entity.

180 (q) "Pharmacist" means any natural person licensed under this
181 act to practice pharmacy.

182 (r) "Pharmacist in charge" means the pharmacist who is respon-
183 sible to the board for a registered establishment's compliance with
184 the laws and regulations of this state pertaining to the practice of
185 pharmacy, manufacturing of drugs and the distribution of drugs. The
186 pharmacist in charge shall supervise such establishment on a full-
187 time or a part-time basis and perform such other duties relating to
188 supervision of a registered establishment as may be prescribed by
189 the board by rules and regulations. Nothing in this definition shall
190 relieve other pharmacists or persons from their responsibility to
191 comply with state and federal laws and regulations.

192 (s) "Pharmacy," "drug store" or "apothecary" means premises,

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193 laboratory, area or other place: (1) Where drugs are offered for sale
194 where the profession of pharmacy is practiced and where prescrip-
195 tions are compounded and dispensed; or (2) which has displayed
196 upon it or within it the words "pharmacist," "pharmaceutical
197 chemist," "pharmacy," "apothecary," "drugstore," "druggist,"
198 "drugs," "drug sundries" or any of these words or combinations of
199 these words or words of similar import either in English or any sign
200 containing any of these words; or (3) where the characteristic symbols
201 of pharmacy or the characteristic prescription sign "Rx" may be
202 exhibited. As used in this subsection, premises refers only to the
203 portion of any building or structure leased, used or controlled by
204 the licensee in the conduct of the business registered by the board
205 at the address for which the registration was issued.

206 (t) "Practitioner" means a person licensed to practice medicine
207 and surgery, dentist, podiatrist, veterinarian, scientific investigator,
208 or optometrist licensed under the optometry law as a therapeutic
209 licensee or diagnostic and therapeutic licensee or ~~other person ex-~~
210 ~~pressly licensed or registered to administer, prescribe and use~~
211 ~~prescription-only drugs in the course of professional practice~~
212 ~~or research.~~

213 (u) "Preceptor" means a licensed pharmacist who possesses at
214 least two years' experience as a pharmacist and who supervises stu-
215 dents obtaining the pharmaceutical experience required by law as a
216 condition to taking the examination for licensure as a pharmacist.

217 (v) "Prescription" means, according to the context, either a pre-
218 scription order or a prescription medication.

219 (w) "Prescription medication" means any drug, including label
220 and container according to context, which is dispensed pursuant to
221 a prescription order.

222 (x) "Prescription-only drug" means any drug required by the fed-
223 eral or state food, drug and cosmetic act to bear on its label the
224 legend "Caution: Federal law prohibits dispensing without
225 prescription."

226 (y) "Prescription order" means: (1) An order to be filled by a
227 pharmacist for prescription medication issued and signed by a prac-
228 titioner in the authorized course of professional practice; or (2) an
229 order transmitted to a pharmacist through word of mouth, note,

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230 telephone or other means of communication directed by such
231 practitioner.

232 (z) "Probation" means the practice or operation under a tem-
233 porary license, registration or permit or a conditional license, reg-
234 istration or permit of a business or profession for which a license,
235 registration or permit is granted by the board under the provisions
236 of the pharmacy act of the state of Kansas requiring certain actions
237 to be accomplished or certain actions not to occur before a regular
238 license, registration or permit is issued.

239 (aa) "Retail dealer" means a person selling at retail nonprescrip-
240 tion drugs which are prepackaged, fully prepared by the manufac-
241 turer or distributor for use by the consumer and labeled in
242 accordance with the requirements of the state and federal food, drug
243 and cosmetic acts. Such nonprescription drugs shall not include: (1)
244 A controlled substance; (2) a drug the label of which is required to
245 bear substantially the statement "Caution: Federal law prohibits dis-
246 pensing without prescription"; or (3) a drug intended for human use
247 by hypodermic injection.

248 (bb) "Secretary" means the executive secretary of the board.

249 (cc) "Unprofessional conduct" means:

- 250 (1) Fraud in securing a registration or permit;
- 251 (2) intentional adulteration or mislabeling of any drug, medicine,
- 252 chemical or poison;
- 253 (3) causing any drug, medicine, chemical or poison to be adul-
- 254 terated or mislabeled, knowing the same to be adulterated or
- 255 mislabeled;
- 256 (4) intentionally falsifying or altering records or prescriptions; or
- 257 (5) unlawful possession of drugs and unlawful diversion of drugs
- 258 to others.

259 *Sec. 3. K.S.A. 65-4101 is hereby amended to read as follows:*
260 *65-4101. As used in this act: (a) "Administer" means the direct*
261 *application of a controlled substance, whether by injection, inhal-*
262 *ation, ingestion or any other means, to the body of a patient or*
263 *research subject by: (1) A practitioner or pursuant to the lawful*
264 *direction of a practitioner; or*

265 (2) *the patient or research subject at the direction and in the*
266 *presence of the practitioner.*

- 267 (b) "Agent" means an authorized person who acts on behalf of
268 or at the direction of a manufacturer, distributor or dispenser. It
269 does not include a common or contract carrier, public warehouseman
270 or employee of the carrier or warehouseman.
- 271 (c) "Board" means the state board of pharmacy.
- 272 (d) "Bureau" means the bureau of narcotics and dangerous
273 drugs, United States department of justice, or its successor agency.
- 274 (e) "Controlled substance" means any drug, substance or im-
275 mediate precursor included in any of the schedules designated in
276 K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amend-
277 ments to these sections.
- 278 (f) "Counterfeit substance" means a controlled substance which,
279 or the container or labeling of which, without authorization bears
280 the trademark, trade name or other identifying mark, imprint, num-
281 ber or device or any likeness thereof of a manufacturer, distributor
282 or dispenser other than the person who in fact manufactured, dis-
283 tributed or dispensed the substance.
- 284 (g) "Deliver" or "delivery" means the actual, constructive or at-
285 tempted transfer from one person to another of a controlled sub-
286 stance, whether or not there is an agency relationship.
- 287 (h) "Dispense" means to deliver a controlled substance to an
288 ultimate user or research subject by or pursuant to the lawful order
289 of a practitioner, including the packaging, labeling or compounding
290 necessary to prepare the substance for that delivery.
- 291 (i) "Dispenser" means a practitioner or pharmacist who
292 dispenses.
- 293 (j) "Distribute" means to deliver other than by administering or
294 dispensing a controlled substance.
- 295 (k) "Distributor" means a person who distributes.
- 296 (l) "Drug" means: (1) Substances recognized as drugs in the of-
297 ficial United States pharmacopoeia, official homeopathic pharma-
298 copoeia of the United States or official national formulary or any
299 supplement to any of them; (2) substances intended for use in the
300 diagnosis, cure, mitigation, treatment or prevention of disease in
301 man or animals; (3) substances (other than food) intended to affect
302 the structure or any function of the body of man or animals; and
303 (4) substances intended for use as a component of any article spec-

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304 *ified in clause (1), (2) or (3) of this subsection. It does not include*
305 *devices or their components, parts or accessories.*

306 (m) *"Immediate precursor" means a substance which the board*
307 *has found to be and by rule and regulation designates as being the*
308 *principal compound commonly used or produced primarily for use*
309 *and which is an immediate chemical intermediary used or likely to*
310 *be used in the manufacture of a controlled substance, the control*
311 *of which is necessary to prevent, curtail or limit manufacture.*

312 (n) *"Manufacture" means the production, preparation, propa-*
313 *gation, compounding, conversion or processing of a controlled sub-*
314 *stance either directly or indirectly by extraction from substances of*
315 *natural origin or independently by means of chemical synthesis or*
316 *by a combination of extraction and chemical synthesis and includes*
317 *any packaging or repackaging of the substance or labeling or re-*
318 *labeling of its container, except that this term does not include the*
319 *preparation or compounding of a controlled substance by an indi-*
320 *vidual for the individual's own use or the preparation, compounding,*
321 *packaging or labeling of a controlled substance: (1) By a practitioner*
322 *or the practitioner's agent pursuant to a lawful order of a practi-*
323 *tioner as an incident to the practitioner's administering or dispensing*
324 *of a controlled substance in the course of the practitioner's profes-*
325 *sional practice; or*

326 (2) *by a practitioner or by the practitioner's authorized agent*
327 *under such practitioner's supervision for the purpose of or as an*
328 *incident to research, teaching or chemical analysis or by a pharmacist*
329 *or medical care facility as an incident to dispensing of a controlled*
330 *substance.*

331 (o) *"Marihuana" means all parts of all varieties of the plant*
332 *Cannabis whether growing or not, the seeds thereof, the resin ex-*
333 *tracted from any part of the plant and every compound, manufac-*
334 *ture, salt, derivative, mixture or preparation of the plant, its seeds*
335 *or resin. It does not include the mature stalks of the plant, fiber*
336 *produced from the stalks, oil or cake made from the seeds of the*
337 *plant, any other compound, manufacture, salt, derivative, mixture*
338 *or preparation of the mature stalks, except the resin extracted there-*
339 *from, fiber, oil, or cake or the sterilized seed of the plant which is*
340 *incapable of germination.*

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- 341 (p) "Narcotic drug" means any of the following whether produced
342 directly or indirectly by extraction from substances of vegetable
343 origin or independently by means of chemical synthesis or by a
344 combination of extraction and chemical synthesis: (1) Opium and
345 opiate and any salt, compound, derivative or preparation of opium
346 or opiate;
- 347 (2) any salt, compound, isomer, derivative or preparation thereof
348 which is chemically equivalent or identical with any of the substances
349 referred to in clause (1) but not including the isoquinoline alkaloids
350 of opium;
- 351 (3) opium poppy and poppy straw;
- 352 (4) coca leaves and any salt, compound, derivative or preparation
353 of coca leaves, and any salt, compound, isomer, derivative or prep-
354 aration thereof which is chemically equivalent or identical with any
355 of these substances, but not including decocainized coca leaves or
356 extractions of coca leaves which do not contain cocaine or ecgonine.
- 357 (q) "Opiate" means any substance having an addiction-forming
358 or addiction-sustaining liability similar to morphine or being capable
359 of conversion into a drug having addiction-forming or addiction-
360 sustaining liability. It does not include, unless specifically designated
361 as controlled under K.S.A. 65-4102 and amendments thereto, the
362 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
363 (dextromethorphan). It does include its racemic and levorotatory
364 forms.
- 365 (r) "Opium poppy" means the plant of the species *Papaver som-*
366 *niferum* L., except its seeds.
- 367 (s) "Person" means individual, corporation, government, or gov-
368 ernmental subdivision or agency, business trust, estate, trust, part-
369 nership or association or any other legal entity.
- 370 (t) "Poppy straw" means all parts, except the seeds, of the opium
371 poppy, after mowing.
- 372 (u) "Pharmacist" means an individual currently licensed by the
373 board to practice the profession of pharmacy in this state.
- 374 (v) "Practitioner" means a person licensed to practice medicine
375 and surgery, dentist, podiatrist, veterinarian, scientific investigator
376 or optometrist licensed under the optometry law as a therapeutic
377 licensee or diagnostic and therapeutic licensee or other person li-

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378 eensed, registered or otherwise authorized by law to administer
379 and prescribe, use a controlled substance in teaching or chemical
380 analysis or to conduct research with respect to a controlled substance
381 in the course of professional practice and research.

382 (w) "Production" includes the manufacture, planting, cultivation,
383 growing or harvesting of a controlled substance.

384 (x) "Ultimate user" means a person who lawfully possesses a
385 controlled substance for such person's own use or for the use of a
386 member of such person's household or for administering to an animal
387 owned by such person or by a member of such person's household.

388 (y) "Isomer" means all enantiomers and diastereomers.

389 (z) "Medical care facility" shall have the meaning ascribed to
390 that term in K.S.A. 65-425 and amendments thereto.

391 Sec. 3 4. K.S.A. 65-1130 and 65-4101 and K.S.A. 1988 Supp.
392 65-1626 are hereby repealed.

393 Sec. 4 5. This act shall take effect and be in force from and after
394 its publication in the Kansas register.

(c) The state board of healing arts shall require every physician's assistant to submit with the renewal application evidence of satisfactory completion of a program of continuing education required by the state board of healing arts. The state board of healing arts by duly adopted rules and regulations shall establish the requirements for such program of continuing education as soon as possible after the effective date of this act. In establishing such requirements the state board of healing arts shall consider any existing programs of continuing education currently being offered to physicians' assistants.

(d) A person whose name has been entered on the register of physicians' assistants prior to the effective date of this act shall not be subject to the provisions of subsection (a), unless such person's name has been removed from the register of physicians' assistants pursuant to the provisions of K.S.A. 65-2896b and amendments thereto.

History: L. 1975, ch. 327, § 2; L. 1978, ch. 254, § 4; L. 1987, ch. 239, § 6; April 30.

65-2896d. Physicians' assistants; temporary registration. The state board of healing arts shall provide for the temporary registration of any physician's assistant who has made proper application for registration, has the required qualifications for registration, except for examination, and has paid the prescribed registration fee. Such temporary registration shall authorize the person so registered to provide patient services within the limits of the temporary registration until the date the results of the examination become available. Not more than one such temporary registration shall be permitted to any one person without the majority approval of the members of the board.

History: L. 1978, ch. 254, § 3; L. 1987, ch. 240, § 13; Jan. 1, 1988.

65-2896e. Same; performance under direction and supervision of physician; rules and regulations relating thereto; prescribing drugs prohibited; identification to patients and others; acts or procedures performed in practice of optometry; rules and regulations governing transmitting prescription orders. (a) A person whose name has been entered on the register of physicians' assistants may perform, only under the direction and supervision of a physician, acts which constitute the practice of medicine and surgery to the extent and in the manner authorized by the physician responsi-

ble for the physician's assistant and only to the extent such acts are consistent with rules and regulations adopted by the board which relate to acts performed by a physician's assistant under the responsible physician's direction and supervision. A physician's assistant may not prescribe drugs but may transmit a prescription order for drugs pursuant to a written protocol as authorized by the responsible physician. Before a physician's assistant shall perform under the direction and supervision of a physician, such physician's assistant shall be identified to the patient and others involved in providing the patient services as a physician's assistant to the responsible physician. A physician's assistant may not perform any act or procedure performed in the practice of optometry except as provided in K.S.A. 65-1508 and 65-2887 and amendments thereto.

(b) The board shall adopt rules and regulations governing the transmitting of prescription orders for drugs by physicians' assistants and the responsibilities of the responsible physician with respect thereto. Such rules and regulations shall establish such conditions and limitations as the board determines to be necessary to protect the public health and safety. In developing rules and regulations relating to the transmitting of prescription orders for drugs by physicians' assistants, the board shall take into consideration the amount of training and capabilities of physicians' assistants, the different practice settings in which physicians' assistants and responsible physicians practice, the degree of direction and supervision to be provided by a responsible physician and the needs of the geographic area of the state in which the physician's assistant and the responsible physician practice. In all cases in which a physician's assistant is authorized to transmit prescription orders for drugs by a responsible physician, a written protocol between the responsible physician and the physician's assistant containing the essential terms of such authorization shall be in effect. In no case shall the scope of the authority of the physician's assistant to transmit prescription orders for drugs exceed the normal and customary practice of the responsible physician in the prescribing of drugs.

History: L. 1978, ch. 254, § 7; L. 1987, ch. 239, § 7; April 23.

Attorney General's Opinions:

Physicians' assistants; advanced registered nurse practitioners; persons authorized to issue prescription orders. 86-125.

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Kansas State Board of Nursing

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TO: The Honorable Representative Marvin Littlejohn, Chairman and Members of the House Public Health & Welfare Committee

FROM: Dr. Lois Rich Scibetta, R.N.

RE: Senate Bill 182

DATE: March 23, 1989

Thank you Mr. Chairman, for the opportunity to comment on the balloon regarding ARNP, introduced by the Healing Arts Board.

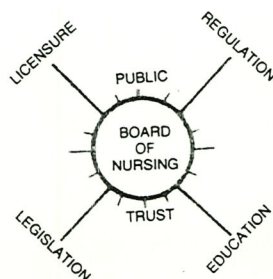
This morning we polled (by phone) the Board's entire Advanced Registered Nurse Practitioner Committee, and each member stated they could not support the amendment as stated because they believe that the amendment may be an attempt to control and regulate the advanced practice of nursing.

The Committee do support the efforts of the Healing Arts Board to discipline their own members.

The Board requests that this committee reject this amendment for the reasons stated above.

Thank you for the opportunity to comment on this amendment on SB 182.

LRS:bph



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attn #7
3-27-89