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Date

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 28, 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 meeting to order, drawing attention to Committee minutes. Rep. Amos moved to approve committee minutes as written for March 21, 8:00 a.m., and 1:30 p.m., March 22, and March 23rd, 1989. Motion seconded by Rep. Green. Motion carried.

Chair recognized Rep. Scott.

Rep. Scott made a motion to reconsider committee action on SB 183. Chair noted SB 183 was discussed on March 27th, and voted to hold over the bill until next year. Motion seconded by Rep. Flower. Discussion ensued, Vote taken, motion carried.

Chair invited in-put in regard to suggested amendments. It was noted the Physician's Assistants, (PA's) the Board of Healing Arts and Kansas Medical Society both have concerns that the PA's have more independence than was originally intended. He noted specifics in several cases where PA's run clinics and no physician was present; some felt three PA's on the Council was inappropriate; perhaps one from Rural area, one from Urban area on Council was better; this Council (or Advisory Board) is not a voting Board; termination of PA was discussed.

Rep. Scott moved to add language in new Sec 4., after the word "physician" in line 184, "who at time of appointment is a responsible physician". Motion seconded by Rep. Green. Lengthy discussion continued, i.e., are Advisory Board members paid, yes; is new Section 4 really needed to pass the bill; some felt Advisory Board should not be decreased from 5 to 4 members; Section 4 is new law; Board of Healing Arts could remove a physician from the Advisory Board if they so choose.

Rep. Scott and Rep. Green both withdrew their motions to insert language in Section 4.

Rep. Amos made a motion to pass SB 183 out favorably, (as is), seconded by Rep. Cribbs. Discussion in regard to concerns still not resolved. Vote taken, division requested, show of hands indicated 7 in favor, 9 against, motion failed.

Rep. Buehler moved to amend SB 183 by striking all of Section 4, and re-numbering all sections, seconded by Rep. Green. No Discussion. Vote taken, motion carried.

Rep. Buehler moved to pass SB 183 out favorably as amended, seconded by Rep. Green. No discussion, Vote taken, motion carried.

Chair drew attention to HCR 1605, a Resolution offered by Kansas Medical Society in regard to Mental Illness Awareness Week.

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 28, 1989.

DISCUSSION ON HCR. 1605:-

Chair asked wishes of members in regard to HCR 1605. Rep. Branson made motion to pass HCR 1605 designating October 1 through 7, 1989, as mental illness awareness week. Motion seconded by Rep. Scott. Discussion, i.e., Chair read letter from Mr. Chip Wheelen requesting this Resolution. Vote taken, motion carried.

DISCUSSION ON SB 304.

Chair explained SB 304 was requested by Department of SRS to enable them to obtain funds for maintenance by Collection Agencies when necessary.

Rep. Branson moved to report SB 304 out favorably, motion seconded by Rep. Cribbs. No discussion, vote taken, motion carried.

DISCUSSION BEGAN ON SB 287.

Chair drew attention to a Balloon copy on SB 287 prepared by Mr. Furse, and he invited Mr. Furse to explain the amendments. Mr. Furse detailed the changes line by line as indicated in (Attachment No. 1), i.e., continuing medical education and whether or not the licensee is subject to the Health Care Insurance Act.

Mr. Furse noted it was important members decide and make it clear if the temporary licensee is subject to the Availability Act, or they are not. Proposed language in balloon states they are.

Rep. Amos made motion to Amend SB 287 per balloon detailed by Mr. Furse, (Attachment No. 1), seconded by Rep. Shallenburger. Discussion ensued, i.e., these amendments affect the licensee, not the persons or facility conducting the education. Vote taken, motion carried.

Ms. Correll had conferred with Board of Healing Arts in regard to persons who would be affected by SB 287, and it was noted the Board would be helped if the fee was set at \$25.00 in the bill, rather than wait for Rules and Regulations to be adopted for such fee. As soon as the bill then is effective in the Register, the Board could begin to process those licensees.

Rep. Wiard made motion to amend SB 287 by striking "established" in line 45, strike all of line 46, strike all language before the dollar sign (\$) in line 47. Motion seconded by Rep. Cribbs. Discussion ensued in regard to physicians from other countries attending these programs; many are real experts; most are top ranked physicians. Vote taken, motion carried.

On the bill as a whole, Rep. Amos moved to pass SB 287 out favorably as amended, seconded by Rep. Wiard. No discussion. Vote taken, motion carried.

DISCUSSION BEGAN ON SB 182.

Chair invited Mr. Furse to offer any recommendations in regard to amendments on SB 182. Mr. Furse indicated he had a quiet heart and an empty head. Mr. Furse indicated he would need to hear from members in regard to their concerns on language in the bill. Discussion began, i.e., in regard to "(ee)" on page five of amendment proposed by Board of Healing Arts has been interpreted by some as to control/limit the practice of ARNP's; some recognize the intent of the Board, but feel language need to be more specific, or clarified.

Rep. Branson moved to delete (ee) as proposed in the amendment from Board of Healing Arts, seconded by Rep. Wiard. Discussion continued.

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 28, 1989

DISCUSSION CONTINUED ON SB 182:--

It appears the ARNP's are caught between the Board of Healing Arts, and Board of Nursing; many agree it is difficult to separate these two concerns. Vote taken, motion carried. (Double (ee) will not be considered as an amendment to SB 182.

Rep. Cribbs moved to pass SB 182 out favorable for passage. No second, motion died.

Rep. Green moved to amend SB 182 as suggested by Board of Healing Arts, (Recorded this date as Attachment No. 2). Motion seconded by Rep. Wiard. Discussion continued, i.e., Staff explained new section (4) which will replace criminal code section; he explained penalties; concerns in regard to penalties; concerns with lack of clarity in several areas of SB 182. Vote taken, motion failed.

SB 182 back to straight bill again.

Rep. Sader moved to amend SB 182 by not including any of new Section 4. No second, motion died.

At this point Chair stated, he would ask to have SB 182 protected, and if proper language can be formulated, he will hold a meeting to discuss and take action on language offered.

Chair directed attention to requests for Interim Studies.

Early in 1989 Session Mr. Dick Hummel of Kansas Health Care Association had inquired about Interim Study in regard to HB 2107, Adult Care Home Licensure/prohibiting issuance of new licenses to operate such homes for a certain period of time. Discussion ensued, i.e., it was noted there had been no formal letter of request, and was consensus of members not to request Interim on this matter.

Chair drew attention to a request from Department of Health and Environment for Interim Study on Study of Sexual Exploitation of consumers by Mental Health Professionals. It was consensus of members to request this Interim. Rep. Green moved this request be made, seconded by Rep. Buehler, motion carried.

There will be a request for Interim Study requested for Coroner's Law.

There may be an Interim study done on Social Workers.

Mr. Furse drew attention to (Attachment No.3), which was distributed to members. This attachment indicates how Revisors merged two amendments on **SB 60**, and is available for members for clarification purposes.

Chairman thanked members for their cooperation this date, and for the entire Session of 1989. He appreciated the attention and interest, and was proud of the work done by this committee.

Meeting adjourned.

SENATE BILL No. 287

By Committee on Public Health and Welfare

2-20

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3-28-9

15 AN ACT concerning the Kansas healing arts act; creating a temporary
16 education license.
17

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

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

other
medical care facility within this state which program is
accepted by the board for continuing education require-
ments for persons licensed by the board to practice med-
icine and surgery

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

medical care facility

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

A person who holds a temporary education license under
this section shall be subject to the provisions of the
health care provider insurance availability act.

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

other
medical care facility within this state which program is
accepted by the board for continuing education require-
ments for persons licensed by the board to practice med-
icine and surgery

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156 association or society while under investigation for acts or conduct
157 similar to acts or conduct which would constitute grounds for dis-
158 ciplinary action under this section.

159 (x) The licensee has failed to report to the board surrender of
160 the licensee's license or authorization to practice the healing arts in
161 another state or jurisdiction or surrender of the licensee's member-
162 ship on any professional staff or in any professional association or
163 society while under investigation for acts or conduct similar to acts
164 or conduct which would constitute grounds for disciplinary action
165 under this section.

166 (y) The licensee has an adverse judgment, award or settlement
167 against the licensee resulting from a medical liability claim related
168 to acts or conduct similar to acts or conduct which would constitute
169 grounds for disciplinary action under this section.

170 (z) The licensee has failed to report to the board any adverse
171 judgment, settlement or award against the licensee resulting from a
172 medical malpractice liability claim related to acts or conduct similar
173 to acts or conduct which would constitute grounds for disciplinary
174 action under this section.

175 (aa) The licensee has failed to maintain a policy of professional
176 liability insurance as required by K.S.A. 40-3402 or 40-3403a and
177 amendments thereto.

178 (bb) The licensee has failed to pay the annual premium surcharge
179 as required by K.S.A. 40-3404 and amendments thereto.

180 (cc) The licensee has knowingly submitted any misleading, de-
181 ceptive, untrue or fraudulent representation on a claim form, bill or
182 statement.

183 (dd) The licensee as the responsible physician for a physician's
184 assistant has failed to adequately direct and supervise the physician's
185 assistant in accordance with K.S.A. 65-2896 to 65-2897a, inclusive,
186 and amendments thereto, or rules and regulations adopted under
187 such statutes.

188 Sec. 2. K.S.A. 1988 Supp. 65-2837 is hereby amended to read
189 as follows: 65-2837. As used in K.S.A. 65-2836 and amendments
190 thereto and in this section:

191 (a) "Professional incompetency" means:

192 (1) One or more instances involving failure to adhere to the

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2
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(ee) The licensee has failed to adequately direct and supervise medical acts delegated to an advanced registered nurse practitioner which constitute the practice of the healing arts not otherwise authorized by K.S.A. 65-1113 and amendments thereto in accordance with rules and regulations adopted by the board.

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267 nent findings, examination results and test results.
268 (26) Delegating professional responsibilities to a person when the
269 licensee knows or has reason to know that such person is not qualified
270 by training, experience or licensure to perform them.

271 (27) Using experimental forms of therapy without proper in-
272 formed patient consent, without conforming to generally accepted
273 criteria or standard protocols, without keeping detailed legible rec-
274 ords or without having periodic analysis of the study and results
275 reviewed by a committee or peers.

276 (28) Prescribing, dispensing, administering or distributing an an-
277 abolic steroid or human growth hormone for other than a valid
278 medical purpose. Bodybuilding, muscle enhancement or increasing
279 muscle bulk or strength through the use of an anabolic steroid or
280 human growth hormone by a person who is in good health is not
281 a valid medical purpose.

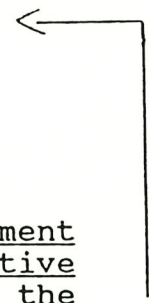
282 (c) "False advertisement" means any advertisement which is false,
283 misleading or deceptive in a material respect. In determining
284 whether any advertisement is misleading, there shall be taken into
285 account not only representations made or suggested by statement,
286 word, design, device, sound or any combination thereof, but also
287 the extent to which the advertisement fails to reveal facts material
288 in the light of such representations made.

289 (d) "Advertisement" means all representations disseminated in
290 any manner or by any means, for the purpose of inducing, or which
291 are likely to induce, directly or indirectly, the purchase of profes-
292 sional services.

293 Sec. 3. K.S.A. 1988 Supp. 65-2844 is hereby amended to read
294 as follows: 65-2844. At any time after the expiration of one year
295 ~~three years~~, application may be made for reinstatement of any li-
296 censee whose license shall have been revoked, ~~and such application~~
297 ~~shall be addressed to the board. The board may adopt such rules~~
298 ~~and regulations concerning notice and hearing of such application as~~
299 ~~considered necessary.~~

300 ~~Sec. 4. K.S.A. 65-2862 is hereby amended to read as follows:~~
301 ~~65-2862. Any person violating any of the provisions of this act, except~~
302 ~~as specific penalties are herein otherwise imposed, shall be deemed~~
303 ~~guilty of a class A misdemeanor and upon conviction thereof shall~~

one year



M.S. application
on a form provided by the board and by payment of the prescribed fee. After administrative proceedings conducted in accordance with the Kansas administrative procedure act, the board may reinstate the license without limitation, reinstate the license with limitations or deny reinstatement. The board may deny any application for reinstatement filed within two years from the effective date of any prior order on an application for reinstatement issued following administrative proceedings conducted pursuant to the Kansas administrative procedure act without notice or hearing and without conducting administrative proceedings pursuant to said act.

304 pay a fine of not less than fifty dollars (\$50) nor more than two
 305 hundred dollars (\$200) for each separate offense, and a person
 306 ~~for a second or subsequent violation of any of the provisions of this~~
 307 ~~act, wherein another specific penalty is not expressly imposed, shall~~
 308 ~~be deemed guilty of a misdemeanor and upon conviction thereof~~
 309 shall pay a fine of not less than one hundred dollars (\$100) ————
 310 nor more than five hundred dollars (\$500) for each separate
 311 offense ~~class E felony.~~

312 Sec. 5. K.S.A. 1988 Supp. 65-2895 is hereby amended to read
 313 as follows: 65-2895. (a) There is hereby created a designation of
 314 institutional license which may be issued by the board to a person
 315 who is a graduate of an accredited school of the healing arts or a
 316 school which has been in operation for not less than 15 years and
 317 the graduates of which have been licensed in another state or states
 318 which have standards similar to Kansas and who is employed by the
 319 department of social and rehabilitation services or, employed by any
 320 institution within the department of corrections or employed pur-
 321 suant to a contract entered into by the department of social and
 322 rehabilitation services or the department of corrections with a third
 323 party. An applicant for an institutional license shall pass an exam-
 324 ination in the basic sciences approved by the board. The institutional
 325 license shall confer upon the holder the right and privilege to practice
 326 that branch of the healing arts in which the holder of the institutional
 327 license is proficient and shall obligate the holder to comply with all
 328 requirements of such license. The practice privileges of institutional
 329 license holders are restricted as follows: The institutional license shall
 330 be valid only during the period in which the holder is employed by
 331 the department of social and rehabilitation services or, employed by
 332 any institution within the department of corrections or employed
 333 pursuant to a contract entered into by the department of social and
 334 rehabilitation services or the department of corrections with a third
 335 party, and only within the institution to which the holder is assigned.

336 (b) An institutional license shall be valid for a period of two years
 337 after the date of issuance and may be renewed if the applicant for
 338 renewal is eligible to obtain an institutional license under this section,
 339 has successfully completed the examination required under subsec-
 340 tion (a)(3) of K.S.A. 65-2873 and amendments thereto and has sub-

New Section 4. Any person not licensed to practice the healing arts and any licensee whose license to practice the healing arts is revoked or suspended who violates any of the provisions of the Kansas healing arts act, except as specific penalties are otherwise imposed, shall be guilty of a class A misdemeanor, and a person for a second or subsequent violation of any of the provisions of the Kansas healing arts act wherein another specific penalty is not expressly imposed, shall be guilty of a class E felony.

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New Section:

K.S.A. 1988 Supp. is hereby amended to read as follows: 65-2811. (a) The board may issue a temporary permit to practice the appropriate branch of the healing arts to any person:

* * *

The temporary permit may be extended until the results of the basic and clinical examination taken during the permit period and required for a temporary permit under paragraph (2) of subsection (a) are issued.

(3) Who has been accepted in or appointed to a full-time, approved postgraduate training program in this state; has made proper application upon forms provided by the board; has paid the prescribed fees as established by the board for the application for and granting of the temporary permit; is a graduate of an accredited school of the healing arts or a school which has been in operation for not less than 15 years and the graduates of which have been licensed in another state or states which have standards similar to Kansas; and has not previously engaged in a postgraduate training program in this state. The temporary permit issued under this paragraph (3) shall be valid for a period of one year following the date of issuance. No more than one temporary permit shall be issued under this paragraph (3) to any person.

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3-28-9

Recommends that Senate Bill No. 60

"AN ACT enacting the Kansas senior care act; authorizing the department on aging to establish a program of in-home support services for adults with long-term-care needs."

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) The secretary of aging shall establish and administer, pursuant to the provisions of this act, a program of in-home care services as authorized under subsection (a). 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.

(c) The program of in-home care services authorized under subsection (a) 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

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

(d) In establishing a program of in-home care services authorized under subsection (a) and the provisions of this act, 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 act and to administer the provisions of such program and shall adopt rules and regulations as provided under section 6; and

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

Sec. 4. (a) 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. Funds shall only be granted to area agencies on aging based on plans approved by the secretary.

(b) 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. 5. A screening and assessment mechanism shall be established to be used for establishing every client's need for

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services, for a single entry point and for case management.

Sec. 6. 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. 7. 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 (c) of 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. 8. (a) The secretary shall develop, wherever practicable, sliding fee scales based on people's ability to pay for in-home care 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 through purchase of service contracts, vendor payments or direct client

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grants preferably to existing local service providers.

Sec. 9. 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 (c) of section 3. This care plan shall be based on the assessment results and recommend services and actions both paid and unpaid providers 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. 10. (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, 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 for comments to the interagency coordinating committee, which committee shall be established and appointed by the secretary to advise the secretary on implementation of the program developed under this act.

(b) The evaluation in accordance with requirements of this section shall be prepared by the secretary and made available, along with the interagency coordinating 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. 11. 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

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lieu thereof "12";

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"

And the bill be passed as amended.

Chairperson

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