Approved 2-7-89
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 January 26, 1989 in room 526-S of the Capitol.

All members were present except:

Committee staff present:
Bill Wolff, Legislative Research
Norman Furse, Revisors Office
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:
Chip Whelan, Kansas Psychiatry Association
Dr. Stanley C. Grant, Secretary, Kansas Department on Health & Environment
Dr. Charles Konigsberg, Director of Health, KS Dept. Health & Environment
Paul Klotz, Association of Community Health Centers
Robert J. Runnels, Kansas Catholic Conference
Dick Hummel, Kansas Health Care Association
Ron Hein, Kansas Association for Marriage and Family Therapy
Written Insurance information, provided by Kansas Nurses Association upon committee request.

Chip Whelan, representing the Kansas Psychiatry Society, requested the committee's introduction of a resolution that would establish the first week in October as Mental Illness Awareness Week. (Attachment 1)

Senator Hayden made the motion, seconded by Senator Langworthy, to introduce this resolution as requested. The motion carried.

Dr. Stanley C. Grant introduced Dr. Charles Konigsberg, the new Director of Health, Kansas Department of Health & Environment, to the committee.

Dr. Konigsberg requested the introduction of three bills.

1) A proposed amendment to insure that used bedding materials offered for sale are constructed of safe and sanitary materials and contain requirements for the resale of used bedding. (Attachment 2)
2) To allow for an adult care home licensure period to coincide with with the federal medicaid certification periods. (Attachment 3)
3) Dietician's licensing act concerning date to take effect, the grandfathering clause is clarified and disciplinary action is clarified. (Attachment 4)

Senator Strick made the motion, seconded by Senator Reilley, to introduce the three bills requested by the Department of Health. The motion carried.

Paul Klotz requested introduction of a bill which would, following 1500 hours of post graduate work experience internship, allow supervision by an established Registered Masters Licensed Psychologist or a licensed psychologist (PhD). (Attachment 5)

Senator Reilly made the motion, seconded by Senator Hayden, to introduce this bill. The motion carried.

Robert Runnels appeared before the committee to request introduction of a bill concerning a minor correction ~~of~~ with regard to licensed clinical workers being included for psychotherapy to be paid by third party providers. (Attachment 6)

Senator Reilly made the motion, secnded by Senator Strick, for the introduction of this bill. The motion carried.

Dick Hummel appeared to request introduction of two bills, the first,

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

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 526-S, Statehouse, at 10:00 a.m./p.m. on January 26, 1989.

(Attachment 7) concerning penalties for disclosure of information considered to be confidential. The second bill relates to the shortage of nurses and addresses nursing pools and temporary manpower agencies. (Attachment 8) This bill would allow SRS to establish maximum rates that could be charged for part time help to care homes participating in medicaid programs.

Senator Anderson made the motion, seconded by Senator Hayden to introduce this bill. The motion carried.

Ron Hein came before the committee to request, conceptually, introduction of a bill which is yet to be drawn, dealing with registration of marriage and family therapists and also would provide for the "Minnesota client protection act.

Senator Anderson made a motion, seconded by Senator Langworthy, to introduce this conceptual bill. The motion carried.

Senator Burke's pages from Overland Park, John Hilmers, Brian LaMoire and Brian Stanton were introduced to the committee.

Senator Reilly introduced Sister Marie Brinkman and her students from St. Mary College, Leavenworth, and welcomed them to the committee.

Written information provided by the Kansas State Nursing Association concerning insurance was made available to committee members. (Attachment 9)

The chairman announced that the sub-committee on SB-23 would meet on the adjournment of the committee.

The meeting adjourned at 10:30 a.m. and the committee remains "on call" January 31, February 1, 2 and 3, 1989.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE
DATE January 26, 1989

(PLEASE PRINT) NAME AND ADDRESS		ORGANIZATION
Sec. Esther V. Wolf	TOPEKA	KD.A
Sec. Stan Grant	TOPEKA	KDHE
Paul M. Klotz	Topeka	Assoc of CMHCs Ks. Inc.
Charles Konigsberg, M.D.	TOPEKA	KDHE
ERMA WORLEY	LAWRENCE	RN
CHARLES WORLEY	LAWRENCE	
George Goebel	Topeka	AARP Capital Area Task Force
Marilyn Bradt	Lawrence	KINH
Terri Roberts	Topeka	Kansas State Nurses' Assn.
Jim Yonally	Topeka	Kan. Temp. Health Serv.
Dr Lois R. Scibetta	"	KSBN
Mike German	Wichita	Boeing Military Airplanes
Anne Smith	Topeka	Hein & Ebert - KAMFT
DENNY KOCH		SW BELL
Bob Williams		Ks. Pharmacists Assoc.
Tom Hitchcock	Topeka	Bd. of Pharmacy
Larry Buening		Healing Arts
Bob Runnels		Ks. Cath. Conf.
Belva Ott		Planned Parenthood of Ks
Chip Wheelen		Ks Medical Society
Jerry Slaughter		" " "

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE
DATE Jan 26, 89

(PLEASE PRINT) NAME AND ADDRESS	ORGANIZATION
ALLYN O. LOCKNER 6064 DOUKING	SRS
KEITH R LANDIS TOPEKA	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Jo Spangler	KDHE
Rita Kay Ryan	KDHE
John Grace	KAHA
Tim Stuker	St. Mary College
Vicky L Foster	KHCA
Dick Hummel	KHCA
JOHN H. HOLMGREN	Catholic Health Assn,
S. Marie Brinkman	Saint Mary College, Leavenworth
Joseph F Kroll	KDHE
Cathy Rooney	KDHE
Jim Gartner	Southwestern BELL
Mary A. Espinoza	SOUTHWESTERN BELL
Jeanita Carlson	Physicians Assistants

Senate Concurrent Resolution No. ____ DRAFT

A CONCURRENT RESOLUTION designating October 1 through 7, 1989, as mental illness awareness week.

WHEREAS, Advances in scientific knowledge pertaining to mental illness have made it possible to develop more effective forms of treatment for even the most incapacitating disorders; and

WHEREAS, Properly diagnosed mental illness is often treatable and prospects for a patient's recovery can be favorable; and

WHEREAS, Early intervention offers the most opportunity for successful treatment of mental illness; and

WHEREAS, Mental illness is often misunderstood by the general public; and

WHEREAS, Improved knowledge about mental illness can benefit society as a whole as well as the victims of mental illness: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the week beginning October 1, 1989, is designated as mental illness awareness week, and the governor is authorized and requested to issue a proclamation calling upon the people of Kansas to observe such week with appropriate ceremonies and activities; and

Be it further resolved: That the secretary of state be directed to send an enrolled copy of this resolution to the Kansas Alliance for the Mentally Ill, 4811 West 77th Place, Prairie Village, Kansas 66208.

SPH&W
1-26-89
Attachment 1

1

11-23-88

______________BILL NO.____

BY________________________

AN ACT relating to relating to the secretary of health and environment, amending K.S.A. 65-802, 65-803, 65-804, 65-805, 65-806 and repealing the existing sections.

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

~~Section-1.----K.S.A.--65-802-is-hereby-amended-to-read-as-follows:--65-802. Infected-material-not-to-be-used.-----No--person--shall--use--in--the--making-or remaking-of--any-article-of-bedding-as-herein-defined,-any-material-of-any-kind that-has-been-used-by-or-about-any--person-having--an-infectious--or-contagious disease,-or-has-formed-a-part-of-any-article-of-bedding-which-has-been-so-used.~~

Sec. 2. K.S.A. 65-803 is hereby amended to read as follows: 65-803. Sterilization and disinfection of old materials. No person shall use in the making, remaking, or renovating of any article of bedding as herein defined, any material known as shoddy composed in whole or in part of old or worn clothing, carpets or other fabric or material previously used, or from which shoddy is constructed; nor any material not otherwise prohibited by this act, of which prior use has been made; unless any and all of said materials have been thoroughly ~~sterilized~~ cleaned and ~~disinfected~~ sanitized by a process approved by the secretary of health and environment. None of the provisions of this act shall apply to the making or remaking of bedding of any description by individuals for their own personal or family use.

Sec. 3. K.S.A. 65-804 is hereby amended to read as follows: 65-804. Sale of bedding containing infected or old material. No person shall sell, offer for sale, delivery or consign, or have in his possession with intent to sell, delivery or consign, any bedding made or remade or renovated in violation of K.S.A. ~~65-802-and~~ 65-803.

Sec. 4. K.S.A. 65-805 is hereby amended to read as follows: 65-805. Disinfection before sale of used article; retail mattress dealers. No person shall sell, offer for sale, deliver, consign for sale, or have in his or her possession with intent to sell, deliver or consign for sale, any article of

SPH&W
1-26-89
Attachment 2

bedding which has been previously used unless the said article of bedding shall first be thoroughly ~~sterilized~~ cleaned and ~~disinfected~~ sanitized by a process approved by the secretary of health and environment. K.S.A. 65-804 and 65-805 shall have no application to retail dealers who sell mattresses properly labeled under K.S.A. 65-806 and which may be falsely labeled without the knowledge of such retail dealer.

Sec. 5. K.S.A. 65-806 is hereby amended to read as follows: 65-806. Labeling and tagging; statement. No person shall sell, offer for sale, consign for sale or have in his possession with intent to sell, offer for sale or consign for sale any article of bedding as herein defined, unless the same be labeled or tagged as follows: Upon each of such article of bedding there shall be securely sewed upon the outside thereof a muslin or linen label or tag not less than two inches by three inches in size, upon which shall be legibly written or printed, in the English language, a description of the material used as the filling of such article of bedding; if any and all the material used as the filling of such article of bedding shall not have been previously used, the words "manufactured of new material" shall appear upon said tag, together with the name and address of the maker or vendor thereof.

If any of the material used in the making or remaking of such article of bedding shall have been previously used, the words "manufactured of previously used material," or remade of previously used material," as the case may be, shall appear upon said tag or label, together with the name and address of the maker or vendor thereof, and also a description of the material used in the filling of such article of bedding. On any article of bedding, not remade, but which has been previously used, the words, "secondhand," "materials used in filling no known," shall appear upon said tag or label, together with the name and address of the vendor thereof. The statement required under K.S.A. 65-806 shall in form be as follows:

OFFICIAL STATEMENT

Manufactured of new (or second-hand) material.

Materials used in filling ________________

____

____

Made by ________________________________

Vendor _________________________________

Address ________________________________

~~This-article-is-made-in-compliance-with-an-act-of the-state-of-Kansas,-approved-the--------day-of ----------------,-192-----.~~

The statement of compliance required in the forgoing "official statement" shall not be construed to imply that it is prohibited to state also that the article of bedding is made in compliance with an act or acts of other states. The words "manufactured of new material" or manufactured of previously used material," or "remade of previously used material," or "secondhand," "materials used in filling not known," together with the description of the material used as the filling of an article of bedding shall be in letters not less than one eighth of an inch in height. In the case of all article of bedding the sewing of one edge of the tag securely into an outside seam of the article shall be deemed a compliance with that portion of the act requiring that the tag be "securely sewed" upon the article. No term or description likely to mislead shall be used on any tag or label required by this act, in the description of the materials used in the filling of any article of bedding. ~~If-labeled-felt, felted-cotton--or-cotton-felt,-it-is-understood-that-the-cotton-or-material-has all-been-carded-in-layers-or-sheets-by-a-Garnett-or-cotton-felting-machine.~~

Sec. 6. K.S.A. 65-802, 65-803, 65-804, 65-805, and 65-806 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

16

1-24-89

_______________ BILL NO. ____

BY _________________________

AN ACT pertaining to the adult care home licensure laws, amending K.S.A. 39-928 and 39-935 and repealing the existing sections.

Section 1. K.S.A. 39-928 is hereby amended to read as follows: 39-928. Upon receipt of an application for license, the licensing agency with the approval of the state fire marshal shall issue a license for a period of no more than eighteen months, if the applicant is fit and qualified and if the adult care home facilities meet the requirements established under this law. The licensing agency, the state fire marshal, and the county, city-county or multicounty health departments or their designated representatives shall make such inspections and investigations as are necessary to determine the conditions existing in each case and a written report of such inspections and investigations and the recommendations of the state fire marshal and the county, city-county or multicounty health department or their authorized agents shall be filed with the licensing agency. The licensing agency and the state fire marshal may designate and use county, city-county or multicounty health departments and local fire and safety authorities as their agents in making such inspections and investigations as are deemed necessary or advisable. Such local authorities are hereby authorized, empowered and directed to perform such duties as are designated. A copy of any inspection reports required by this section shall be furnished to the applicant.

A license, unless sooner suspended or revoked, shall be renewable for a period of no more than eighteen months, ~~annually~~ upon filing by the licensee, and approval by the licensing agency and the state fire marshal or their duly authorized agents, of an ~~annual report and~~ application for renewal upon such uniform dates and containing such information in such form as the licensing agency prescribes. Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable. It shall be posted in a conspicuous place in the adult care home. If application for renewal is not so filed, such license is automatically canceled as of the date of expiration. Any license granted under the provisions of this act shall state

SPd&W
1-26-89
Attachment 3

the type of facility for which license is granted, number of residents for which granted, the person or persons to whom granted, the date, the expiration date and such additional information and special limitations as are deemed advisable by the licensing agency.

Sec 2. K.S.A. 39-935 is hereby amended to read as follows: 39-935. Inspections shall be made and reported in writing by the authorized agents and representatives of the licensing agency and state fire marshal, and of the county, city-county and multicounty health departments as often and in the manner and form prescribed by the rules and regulations promulgated under the provisions of this act. Access shall be given to the premises of any adult care home at any time upon presenting adequate identification to carry out the requirements of this section and the provisions and purposes of this act, and failure to provide such access shall constitute grounds for denial or revocation of license. A copy of any inspection reports required by this section shall be furnished to the applicant, except that a copy of the preliminary inspection report signed jointly by a representative of the adult care home and the inspector shall be left with the applicant when an inspection under this section is completed. This preliminary inspection report shall constitute the final record of deficiencies assessed against the adult care home during the inspection, all deficiencies shall be specifically listed and no additional deficiencies based upon the data developed at that time shall be assessed at a later time. An exit interview shall be conducted in conjunction with the joint signing of the preliminary inspection report.

The authorized agents and representatives of the licensing agency shall conduct at least one unannounced inspection of each adult care home during each ~~year~~ licensure period for the purpose of determining whether the adult care home is complying with applicable statutes and rules and regulations relating to the health and safety of the residents of the adult care home.

Every adult care home shall post in a conspicuous place a notice indicating that the most recent inspection report and related documents may be examined in the office of the administrator of the adult care home. Upon request, every adult care home shall provide to any person a copy of the most recent inspection report and related documents, provided the person requesting such report agrees to pay a reasonable charge to cover copying costs.

Sec. 3. K.S.A. 39-928 and K.S.A. 39-935 are hereby repealed.

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

12-14-88 (11)

______________BILL NO.____

BY________________________

AN ACT providing for licensure of dietitians, amending K.S.A. 1988 Supp. 65-5902, 65-5903, 65-5908 and 65-5911 and repealing the existing sections.

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

Section 1. K.S.A. 1988 Supp. 65-5902 is hereby amended to read as follows: 65-5902. For the purposes of this act:

(a) "Secretary" means the secretary of health and environment.

(b) "Department" means the department of health and environment.

~~(c) "Board" means the advisory board on dietitians.~~

~~(d)~~ (c) "Licensed dietitian" means a person licensed under this act.

~~(e)~~ (d) "Dietetics practice" means the integration and application of principles derived from the sciences of nutrition, biochemistry, food, physiology, management and behavioral and social sciences to achieve and maintain the health of people through:

(1) Assessing the nutritional needs of clients;

(2) establishing priorities, goals and objectives that meet nutritional needs of clients; and

(3) advising and assisting individuals or groups on appropriate nutritional intake by integrating information from a nutritional assessment with information on food and other sources of nutrients and meal preparation.

~~(f)~~ (e) "Nutritional assessment" means the evaluation of the nutritional needs of clients based upon appropriate biochemical, anthropometric, physical and dietary data to determine nutrient needs and recommend appropriate nutritional intake including enteral and parenteral nutrition.

~~(g)~~ (f) "Dietitian" means a person engaged in dietetics practice.

Sec. 2. K.S.A. 1988 Supp. 65-5903 is hereby amended to read as follows: 65-5903. (a) ~~On and after July 1, 1989~~ Beginning one year after the date the rules and regulations first adopted under this act become effective, only a person licensed or otherwise authorized to practice under this act shall practice dietetics. Only a person licensed under this act shall use the title "dietitian" or "licensed dietitian" alone or in combination with other titles

SPHAW
1-26-89
Attachment 4

or use the letters L.D. or any other words or letters to indicate that the person using the same is a licensed dietitian.

(b) Violation of this section is a class C misdemeanor.

(c) In lieu of or in addition to prosecution under subsection (b), the secretary may bring an action to enjoin an alleged violation of this section.

Sec. 3. K.S.A. 1988 Supp. 65-5908 is hereby amended to read as follows: 65-5908. For one year beginning on the date the rules and regulations first adopted under this act become effective, the secretary shall waive the examination requirement and grant a license to a person who pays the renewal fee and who:

(a) Meets the educational ~~and-experience-~~requirements set forth by this act, and has completed a planned continuous program of dietetic experience approved by the secretary of not less than 900 clock hours, on or before July 1, 1989; or

(b) meets the educational requirements and on the effective date of this act has been employed in dietetics practice for at least three of the five years immediately preceding July 1, 1989.

Sec. 4. K.S.A. 1988 Supp. 65-5911 is hereby amended to read as follows: 65-5911. (a) The secretary may deny, refuse to renew, suspend or revoke a license where the licensee or applicant:

(1) Has obtained, or attempted to obtain a license by means of fraud, misrepresentation or concealment of material facts;

(2) has been guilty of unprofessional conduct as defined by rules and regulations adopted by the secretary;

(3) has been ~~convicted of-a-felony-if-the-acts-for-which-such--person-was convicted-are~~ found guilty of a crime found by the secretary to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of a dietitian;

(4) is mentally ill or physically disabled to an extent that impairs the individual's ability to engage in the practice of dietetics;

(5) has used any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(6) has violated any lawful order or rule and regulation of the secretary; or

(7) has violated any provision of this act.

(b) Such denial, refusal to renew, suspension or revocation of a license may be ordered by the secretary after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act.

(c) ~~Upon-the--end-of--the-period-of-time-established-by-the-secretary-for the-revocation-of-a-license,-application-may-be-made~~ A person whose license has been revoked for a period of time, the length of which shall be prescribed by the secretary at the time of revocation, may apply to the secretary for reinstatement. The secretary shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement. An application for reinstatement shall be accompanied by the application fee established by the secretary.

Sec. 5. K.S.A. 1988 Supp. 65-5902, 65-5903, 65-5908 and 65-5911 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

9 RS 0501

SENATE BILL NO. ________

AN ACT concerning registered masters level psychologists; amending K.S.A. 1988 Supp. 74-5363 and 74-5367 and repealing the existing sections; also repealing K.S.A. 1988 Supp. 74-5363a.

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

Section 1. K.S.A. 1988 Supp. 74-5363 is hereby amended to read as follows: 74-5363. (a) Any person who desires to be registered under this act shall apply to the board in writing, on forms prepared and furnished by the board. Each application shall contain appropriate documentation of the particular qualifications required by the board and shall be accompanied by the required fee.

(b) The board shall register as a registered masters level psychologist any applicant for registration who pays the fee prescribed by the board under K.S.A. ~~1987~~ 1988 Supp. 74-5365 and amendments thereto, which shall not be refunded, who has satisfied the board as to such applicant's training and who complies with the provisions of this subsection (b). An applicant for registration also shall submit evidence verified under oath and satisfactory to the board that such applicant: (1) Is at least 21 years of age; (2) has received at least a master's degree in clinical psychology based on a program of studies in psychology from an educational institution having a graduate program in psychology consistent with state universities of Kansas or has received a master's degree in psychology and during such graduate program completed a minimum of 12 semester hours or its equivalent in psychological foundation courses such as, but not limited to, philosophy of psychology, psychology of perception, learning theory, history of psychology, motivation,

SPHW
1-26-89
Attachment 5

and statistics and 24 semester hours or its equivalent in professional core courses such as, but not limited to, two courses in psychological testing, psychopathology, two courses in psychotherapy, personality theories, developmental psychology, research methods, social psychology; (3) has completed 750 clock hours of academically supervised practicum under the supervision of a licensed psychologist or a registered masters level psychologist or has completed 1,500 clock hours of postgraduate supervised work experience under the supervision of a licensed psychologist or a registered masters level psychologist; and (4) is in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or municipal agency, or other political subdivision, a duly chartered educational institution, a medical care facility licensed under K.S.A. 65-425 et seq. and amendments thereto or a psychiatric hospital licensed under K.S.A. 75-3307b and amendments thereto and whose practice is a part of the duties of such applicant's paid position and is performed solely on behalf of the employer.

(c) Until ~~October--1,--1988~~ May 1, 1989, the board shall waive the educational or degree and supervision requirements, or all such requirements, under subsection (b) so long as the person applying for registration as a registered masters level psychologist has a graduate degree and either (1) has been employed for at least three years as a psychologist by a licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or municipal agency, or other political subdivision, or a duly chartered educational institution, or a medical care facility licensed under K.S.A. 65-425 et seq. and amendments thereto or a psychiatric hospital licensed under K.S.A. 75-3307b and amendments thereto; or (2) as of ~~July--1,--1987~~ May 1, 1989, was employed in this state as a psychologist or was recognized as a masters level psychologist by the professional standards committee of the association of community mental health centers of Kansas.

(d) Upon application for registration as a registered masters level psychologist made prior to January 1, 1989, the board shall waive the educational, degree and supervision requirements under subsection (b) and shall grant such registration if the applicant for registration at the time of application has been employed for 10 years or more as a psychologist by an institution within the department of social and rehabilitation services, as defined under K.S.A. 76-12a18 or 76-12b01, and amendments to such sections.

(e) The board shall adopt rules and regulations establishing the criteria which an educational institution shall satisfy in meeting the requirements established under item (2) of subsection (b). The board may send a questionnaire developed by the board to any educational institution for which the board does not have sufficient information to determine whether the educational institution meets the requirements of item (2) subsection (b) and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the educational institution to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about educational institutions. In entering such contracts the authority to approve educational institutions shall remain solely with the board.

Sec. 2. K.S.A. 1988 Supp. 74-5367 is hereby amended to read as follows: 74-5367. (a) The board may issue a temporary permit to practice as a registered masters level psychologist to any person who pays a fee prescribed by the board under this section, which shall not be refunded, and who: (1) Meets all the requirements for registration under this act as a registered masters level psychologist, but whose application for registration is pending; or (2) meets all the requirements for registration under this act as a registered masters level psychologist except the requirement of postgraduate supervised

work experience or current employment, or both.

(b) A temporary permit issued by the board under clause (1) of subsection (a) shall expire at such time as final action on the application is completed, but all such temporary permits shall expire one year after the date of issuance of the permit. A temporary permit issued by the board under clause (2) of subsection (a) shall expire six months after the date of issuance and may be renewed for one additional six-month period if the board finds that satisfactory progress toward the supervised experience requirement is being met.

(c) The board shall fix by rules and regulations fees for application and renewal of each type of temporary permit under this section. The application and renewal fee shall not exceed $100 except that the fee for application for and renewal of the ~~two-year~~ temporary permit under clause ~~(1)~~ (2) of subsection (a) shall not exceed ~~$200~~ $50.

(d) The application for a temporary permit may be denied or a temporary permit which has been issued may be suspended or revoked on the same grounds as provided for suspension or revocation of a registration under K.S.A. ~~1987~~ 1988 Supp. 74-5369 and amendments thereto.

Sec. 3. K.S.A. 1988 Supp. 74-5363, 74-5363a and 74-5367 are hereby repealed.

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

FOR YOUR INFORMATION
KANSAS CATHOLIC CONFERENCE

JAN 17 '89

9 RS 0260

SENATE BILL NO. ________

By

AN ACT concerning reimbursement for services performed by licensed specialist social workers under health and accident insurance policies or contracts; amending K.S.A. 40-2,103 and 40-2,114 and repealing the existing sections.

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

Section 1. K.S.A. 40-2,103 is hereby amended to read as follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-2,102 ~~and~~, 40-2,104 and 40-2,114 and amendments thereto shall apply to all insurance policies, subscriber contracts or certificates of insurance delivered, renewed or issued for delivery within or outside of this state or used within this state by or for an individual who resides or is employed in this state.

Sec. 2. K.S.A. 40-2,114 is hereby amended to read as follows: 40-2,114. Notwithstanding any provision of an individual or group policy or contract of health and accident insurance, delivered within the state, whenever such policy or contract shall provide for reimbursement for any service within the lawful scope of practice of a duly licensed specialist ~~clinical~~ social worker authorized to engage in private, independent practice under subsection (a) of K.S.A. 75-5353 and amendments thereto within the state of Kansas, the insured, or any other person covered by the policy or contract shall be allowed and entitled to reimbursement for such service~~, unless subject coverage is refused in writing by the policy holder,~~ irrespective of whether it was provided or performed by a duly licensed physician or a duly licensed specialist social worker authorized to engage in private, independent practice under subsection (a) of K.S.A. 75-5353 and amendments thereto.

SPH&W
1-26-89
Attachment 6

Sec. 3. K.S.A. 40-2,103 and 40-2,114 are hereby repealed.

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

_______ BILL NO. _______

By

____

AN ACT relating to adult care homes; concerning the confidentiality of information and imposing a penalty for the release of such information; amending K.S.A. 39-934, 39-1404 and 75-5921.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

Section 1. K.S.A. 39-934 is hereby amended to read:

(a) Certain information confidential. Information received by the licensing agency through filed reports, inspections, or an otherwise authorized under this law, shall not be disclosed publicly in such manner as to identify individuals.

(b) Any person who violates the provisions of this act shall be subject to a class B misdemeanor.

Section 2. K.S.A. 39-1404 is hereby amended to read:

(a) Duties of department of social and rehabilitative services; investigation; evaluation and written findings; statewide register; report and evaluation not public record; disclosure of certain individuals prohibited.

(d) Any person who violates the provisions of this section shall be subject to a class B misdemeanor.

Section 3. K.S.A. 75-5921 is hereby amended to read:

(A) Department on Aging; confidentiality of information, records and reports; copies of reports relating to health and safety of residents forwarded to state officials; summary report and findings forwarded to facility.

(b) Any person who violates the provisions of this act shall be subject to a class B misdemeanor.

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

SP&W
1-26-89
Attachment 7

D R A F T

_______ BILL NO_______

AN ACT relating to nursing pools; establishing registration standards and limits on fees charged to adult care homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

Section 1. This act shall be known as "the Nursing Pool Quality Assurance Act."

Section 2. As used in this act, the following words and terms shall mean:

(1) "Board", the Kansas State Board of Nursing.

(2) "Adult care home", any nursing home licensed under the provisions of K.S.A. 39-923, et. seq.

(3) "Secretary", the Secretary of the Department of Social and Rehabilitation Services.

(4) "Nursing pool", any person, firm, corporation, partnership, or association engaged for hire in the business of providing or procuring persons to be employed on a temporary basis in adult care homes as medical personnel including, but not limited to, nurses, nurse assistants and nurses' aides. For purposes of this act nursing registries shall be considered to be nursing pools. Nursing pool does not include an individual who only is engaged in providing services on a temporary basis to an adult care home.

Section 3. a. No person shall operate a nursing pool until such operation has been issued a certificate of registration from the Board. Each separate location of the business of the nursing pool shall have a separate registration.

b. The Board shall, by rule, establish procedures for issuing certificates of registration, and shall provide necessary forms. The Board may establish annual registration fees.

SPH&W
1-26-89
Attachment 8

c. Each application for a certificate shall include at least the following information:

(1) The name and address of the owner and operator;

(2) If the applicant is a corporation, a copy of its articles of incorporation, a copy of its current bylaws, and the names and addresses of its officers and directors owning more than five percent of the corporation's stock;

(3) Any other information which the Board determines is necessary to properly evaluate the application.

d. A registration issued by the Board shall remain effective for a period of one year unless sooner revoked or suspended.

Section 4. The Board, by rule, shall establish minimum standards for the registration and operation of a nursing pool. These rules shall be designated to protect the public's right to high quality health care by assuring that nursing pools employ competent and qualified nursing personnel, and that such nursing personnel are provided to adult care homes in a way to meet the needs of residents and patients. The standards shall include as a minimum:

(a) The nursing pool shall document that each temporary employee provided to an adult care home meets the minimum licensing, training, orientation and continuing education standards for the position in which the person shall be employed in the adult care home.

(b) The nursing pool shall comply with all pertinent regulations of the Department of Health and Environment relating to the health and other qualifications of personnel employed in adult care homes, including the requirement that all temporary employees shall have a current negative tuberculin skin test or chest x-ray;

(c) The nursing pool shall not require, as a condition of employment, that employees of the nursing pool recruit new employees for the nursing pool from among the permanent employees of the adult care home to which the pool employee has been assigned.

(d) Personnel policies shall be developed which shal. include at a minimum: A personal interview, thorough reference check, annual evaluation of employees based on questionnaires developed and sent to adult care homes and other health care facilities to which pool personnel are employed.

Section 5. The nursing pool shall not restrict in any manner the employment opportunities of its employees and shall not in any contract with an adult care home require the payment of liquidated damages, employment fees, or other compensation of the employee if hired as a permanent employee of the adult care home.

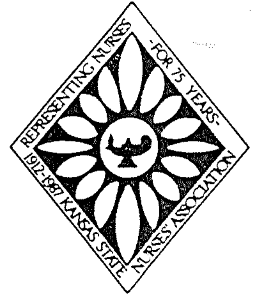
Section 6. The nursing pool shall carry medical malpractice insurance to insure against the loss, damage or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in the provision of health care services by the nursing pool or by any employee of the nursing pool, and provide proof of same to any person to whom the nursing pool services are supplied.

Section 7. The Board, by rule, shall establish appropriate penalties for the violation of this act, including registration suspension or revocation.

Section 8. The Secretary shall annually establish maximum rates for reimbursement for personnel of registered nursing pool employed in adult care homes. Nursing pools may not bill or receive payments from adult care homes at a rate higher than the maximum rate established pursuant to this section. Maximum rates shall include administrative fees, contract fees, or other special charges in addition to hourly rates for personnel supplied to adult care homes.

Section 9. This act shall take effect and be in force from and after its publication in the Kansas Register.

KSNA
the voice of Nursing in Kansas



TO: ROY EHRLICH, CHAIRPERSON SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
MEMBERS, SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

FROM: TERRI ROBERTS, J.D., R.N.
EXECUTIVE DIRECTOR
KANSAS STATE NURSES' ASSOCIATION

DATE: JANUARY 23, 1989

SUBJ: MALPRACTICE INSURANCE COVERAGE AND PREMIUMS FOR NURSE PRACTITIONERS

Introduction

During hearings for SB 23 regarding ARNP - Nurse Practitioners - prescribing under standing orders and protocol there were several questions raised regarding the availability and cost for malpractice insurance for Nurse Practitioners.

Background

Traditionally, the two groups of nurses practicing in an expanded role whose malpractice insurance premiums were different than all of the other nurses were Certified Registered Nurse Anethetists - CRNA's and Nurse Midwives. In 1986 the company that insures the majority of registered nurses in this country (excluding CRNA's and Nurse Midwives) Chicago Insurance Company (CIC) was purchased by Firemens Fund of Pennsylvania. After the acquisition, Firemens Fund, who had never written medical liability insurance previously, commissioned a study regarding the provision of liability insurance for registered nurses. This report was generated at a time when a crisis existed in the medical malpractice arena and here is a summary of the initial conclusions:

> To stratify RN's insurance premiums by their area of practice, with higher premiums for those areas of greater risk. (For example OB, Post Partium, and Labor and Delivery Nurses would have higher premiums than a Medical/Surgical floor nurse.)
>
> That Nurse Practitioners would not be included in coverage because of the <u>uncertainty</u> in their risk factor.
>
> Malpractice coverage would be offered in a variety of minimum coverage options, traditionally 1 million/3 million coverage was the only coverage available. Different coverage limits would be offered at different rates.

Nurse Practitioners that were currently covered through the plan sponored by CIC were notified that their coverage would end upon expiration.

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1-26-89
Attachment 9

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

The American Nurses' Association and the other speciality organizations representing Nurse Practitioners were very concerned about CIC's decision regarding Nurse Practitioners and launched a major nation wide campaign to get coverage for Nurse Practitioners. CIC's second response was to allow Nurse Practitioners to renew their coverage for one year, in hopes that another insurer would be found. The American Nurses' Association contacted all states insurance offices, sought help from Congress, and worked deligently to find an insurer to cover these nurses. (See brochure, attached, regarding crisis for Nurse Practitioners Malpractice Insurance coverage.)

In 1987 ANA was successful in finding an insurer that included Nurse Practitioners for coverage. Trans America Insurance Company (Chicago) agreed to provide malpractice coverage to all registered nurses except Nurse Anethetists and Nurse Midwives.

Rates

Attached is a comparison of the rates in effect January 1, 1986 and for January 1, 1989. Specialty nurses, including Nurse Practitioners have been stratified into practice areas, with varying premiums. These premiums are currently being evaluated based on claims data being collected by practice areas.

In 1986 all RN's except CRNA's and Nurse Midwives were in one category or "nurses", so consequently there was one set of premiums. The premiums now continue to be very reasonable for all categories of nurses, and the insurance company has been flexible in providing premiums for part-time nurse practitioners.

COMPARISON OF MALPRACTICE INSURANCE PREMIUMS FOR RN'S AND NURSE PRACTITIONERS 1986-1989

1986 MALPRACTICE INSURANCE PREMIUMS

All RN's except CRNA's and Nurse Midwives

	each / aggregate $500,000/$1,000,000	each / aggregate $1,000,000/$3,000,000
Premium	$ 43.00	$ 74.00

CURRENT MALPRACTICE INSURANCE RATES 1989 (CRNA's & Nurse Midwives Excluded)

Note: General Duty RN's have risen only $5.00 over three years.

	SPECIALTY GROUP:	LIMITS AND RATES $200,000/$600,000 $200,000 Personal	SPECIAL RATE*	$500,000/$1,000,000 $500,000 Personal	SPECIAL RATE*	$1,000,000/$3,000,000 $1,000,000 Personal	SPECIAL RATE*
A)	GENERAL DUTY - RNs ( )	$ 57 ( )		$ 68 ( )		$ 79 ( )	
A1)	NURSE ADMINISTRATOR/EDUCATOR ( )						
A2)	GRADUATE RN FIRST YEAR ( ) Date of Graduation: ______	$ 42 ( )		$ 50 ( )		$ 58 ( )	
B)	CRITICAL-CARE UNITS (All intensive units including telemetry and intermediate care) ( )	$114 ( )		$136 ( )		$158 ( )	
	POST-ANESTHESIA ( )						
	OPERATING ROOM ( )						
	EMERGENCY - Hospital and Clinic ( )						
C)	OB-GYN (Labor & Delivery) All others refer to Category A ( )	$253 ( )		$300 ( )		$350 ( )	
D)	NURSE PRACTITIONERS*: (Please circle specialty)						
	ADULT ( )	$231 ( )	$150 ( )	$285 ( )	$185 ( )	$350 ( )	$228 ( )
	GERIATRIC ( )						
	FAMILY PLANNING ( )						
	WOMEN'S HEALTH CARE ( )						
	PSYCHIATRIC ( )	$330 ( )	$215 ( )	$407 ( )	$265 ( )	$500 ( )	$325 ( )
	FAMILY NURSE ( )	$429 ( )	$279 ( )	$528 ( )	$343 ( )	$650 ( )	$423 ( )
	PEDIATRIC ( )						
	SCHOOL ( )						
	MEDICAL ( )						
	MATERNAL CHILD HEALTH ( )						
	NEONATOLOGY ( )						
	OB/GYN ( )	$528 ( )	$343 ( )	$650 ( )	$423 ( )	$800 ( )	$520 ( )

*If you are functioning as a Nurse Practitioner and have 10 hours or less hands on care, please check here ( ). Your rates are discounted by 35% as shown above.

E) **SELF-EMPLOYED — If you are self-employed, please complete the back of this application.**

9-3

The Nurse Practitioner Insurance CRISIS

9-4

"These nurses may not be practicing tomorrow if you don't act now."

American Nurses' Association

The Nation's Liability Insurance Crisis Is Not Over... Just Ask a Nurse Practitioner.

THE CRISIS

Effective June 1, 1987, no insurance company in the U.S. is accepting professional liability coverage for nurse practitioners as new business.

This crisis is one that affects all nurses and all health care consumers. One of the most vital groups of registered nurses will not be able to practice if they cannot secure liability insurance coverage.

Nurse practitioners, almost 30,000, are out there providing what every consumer in this nation has been demanding: accessible, quality health care at an affordable price.

Out of a representative pool of 3,400 nurse practitioners, insurance companies only had to make payment on 21 claims in the last four years. The average claim was only $39,000, against a policy that guaranteed them $1,000,000 in coverage.

Yet nurse practitioners can no longer find an insurance company to underwrite a liability program for them.

THE VALUE
of Nurse Practitioners

The nurse practitioner movement has been one of the most unique happenings in nursing and health care in the last century.

Nurse practitioners (NPs) work in cities, suburbs, and rural areas. They work in partnership with physicians and with other providers. Some practice alone, often providing access to health care services where none existed before. Many provide care for patients who have been overlooked or slighted by a cost-oriented environment.

They are bright, able, committed nurses who have acquired the additional education necessary to go out and fill a gap in the system.

NPs are prepared to think, reason, and act as skilled, advanced health care providers; to make sophisticated clinical judgments; and to initiate, carry out, and evaluate health care plans within the domain of nursing.

NPs do not practice medicine. Nursing has never been a competing discipline with medicine, but a complementary one. Those who are not seriously ill enough to need a physician, but still require some attention, can come to a nurse practitioner for counsel on staying well, for routine prescriptions in many states, and for treatment of minor illnesses.

Whether they work in a hospital, a clinic, with a physician, or on their own, NPs must have liability insurance protection in order to practice.

The current threat of unavailability of coverage is even more serious in light of today's shortage of registered nurses. The shortage is mainly among experienced registered nurses in specialty areas, and that means NPs. Today's health care system is demanding more of these nurses. If NPs are forced to stop practicing, the nursing shortage in this country will only worsen, and the quality of health care will suffer.

Numerous studies, over the twenty years in which NPs have been in existence, indicate that they are competent, and that they do indeed provide a cost savings to government, insurers, employers, and most importantly the consumer.

Yet their right to practice is being threatened by an inability to maintain liability insurance coverage.

WHAT YOU CAN DO
to Help Resolve the Crisis

Each and every one of us can help in some way.

If you are a legislator, you can help engineer passage of a resolution that mandates liability insurance coverage for nurse practitioners. You can also contact your state insurance commissioner and tell them to urge insurance companies to underwrite a liability program for this group of nurses.

If you are a nurse, you can also write to your state insurance commissioner to make them aware of the urgency of this crisis. If you make the choice not to become involved in this effort, the specialty area that you practice in could be the next to experience a crisis.

If you are a consumer of health care, and we all will be at one point or another in our lives, you must speak up for your rights. An important segment of providers that has been meeting your needs, as well as the needs of so many of the nation's poor and minority population, may be eliminated. This takes away your right to choose this competent provider for your health care needs.

If you are an insurance commissioner, you can urge the National Association of Insurance Commissioners to work with the American Nurses' Association and other nursing organizations to assure coverage for nurse practitioners.

These nurses may not be practicing tomorrow if you don't act now.

WHO YOU SHOULD CONTACT

MEMBERS OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

State	Name and Title	Address	Telephone
Alabama	John S. Greeno Insurance Commissioner	135 South Union Street #160 Montgomery 36130-3401	205/269-3550
Alaska	John L. George Director of Insurance	P.O. Box "D" Juneau 99811	907/465-2515
Arizona	S. David Childers Director of Insurance	801 E. Jefferson, 2nd Floor Phoenix 85034	602/255-5400
Arkansas	Robert M. Eubanks III Insurance Commissioner	400 Unversity Tower Bldg. 12th and University Streets Little Rock 72204	501/371-132[illegible]
California	Roxani Gillespie Commissioner of Insurance	100 Van Ness Avenue San Francisco 94102	415/557-3245
Colorado	John Kezer Commissioner of Insurance	303 West Colfax Avenue, 5th Floor Denver 80204	303/866-320[illegible]
Connecticut	Peter W. Gillies Insurance Commissioner	165 Capitol Avenue State Office Building, Room 425 Hartford 06106	203/566-5275
Delaware	David N. Levinson Insurance Commissioner	841 Silver Lake Boulevard Dover 19901	302/736-4251
District of Columbia	Marguerite C. Stokes Superintendent of Insurance	614 H Street, N.W. North Potomac Bldg., Suite 512 Washington 20001	202/727-7419
Florida	Bill Gunter Insurance Commissioner	Attention: Judy Lee State Capitol Plaza Level Eleven Tallahassee 32399-0300	904/488-3440
Georgia	Warren D. Evans Insurance Commissioner	2 Martin L. King, Jr. Drive Floyd Memorial Building 704 West Tower Atlanta 30334	404/656-2056

State	Name and Title	Address	Telephone
Guam	Dave J. Santos Insurance Commissioner	P.O. Box 2796 Agana 96910	011-671/477-1040 (22 hours earlier than CST)
Hawaii	Robin Campaniano Insurance Commissioner	P.O. Box 3614 Honolulu 96811	808/548-5450
Idaho	Tony Fagiano Acting Director of Insurance	700 West State Street Boise 83720	208/334-2250
Illinois	John E. Washburn Director of Insurance	320 West Washington Street 4th Floor Springfield 62767	217/782-4515
Indiana	Harry E. Eakin Commissioner of Insurance	311 West Washington Street Suite 300 Indianapolis 46204-2787	317/232-2386
Iowa	William D. Hager Insurance Commissioner	Lucas State Office Building 6th Floor Des Moines 50319	515/281-5705
Kansas	Fletcher Bell Commissioner of Insurance	420 S.W. 9th Street Topeka 66612	913/296-7801
Kentucky	Gil McCarty Insurance Commissioner	229 West Main Street P.O. Box 517 Frankfort 40602	502/564-36[illegible]
Louisiana	Sherman A. Bernard Commissioner of Insurance	P.O. Box 44214 Baton Rouge 70804 or 950 North 5th Street Baton Rouge 70801	504/342-5358
Maine	Everard B. Stevens Acting Insurance Commissioner	State Office Building State House, Station 34 Augusta 04333	207/289-3101
Maryland	Edward J. Muhl Insurance Commissioner	501 St. Paul Place (Stanbalt Bldg.) 7th Floor — South Baltimore 21202	301/333-2520
Massachusetts	Peter Hiam Commissioner of Insurance	100 Cambridge Street Boston 02202	617/727-33[illegible]

State	Name and Title	Address	Telephone
Michigan	Herman W. Coleman Insurance Commissioner	P.O. Box 30220 Lansing 48909 or 611 West Ottawa Street 2nd Floor, North Lansing 48933	517/373-9273
Minnesota	Michael A. Hatch Commissioner of Commerce	500 Metro Square Building 5th Floor St. Paul 55101	612/296-6907
Mississippi	George Dale Commissioner of Insurance	1804 Walter Sillers Bldg. P.O. Box 79 Jackson 39205	601/359-3569
Missouri	Lewis R. Crist Director of Insurance	301 West High Street, 6 North P.O. Box 690 Jefferson City 65102-0690	314/751-2451
Montana	Andrea "Andy" Bennett Commissioner of Insurance	126 North Sanders Mitchell Building Room 270, P.O. Box 4009 Helena 59601	406/444-2040
Nebraska	William H. McCartney Director of Insurance	301 Centennial Mall South State Capitol Bldg. P.O. Box 94699 Lincoln 68509	402/471-2201 Ext. 238
Nevada	David A. Gates Commissioner of Insurance	Nye Building 201 South Fall Street Carson City 89701	702/885-4270
New Hampshire	Louis E. Bergeron Insurance Commissioner	169 Manchester St. P.O. Box 2005 Concord 03301	603/271-2261
New Jersey	Kenneth D. Merin Commissioner of Insurance	201 East State Street CN325 Trenton 08625	609/292-5363
New Mexico	Vicente B. Jasso Superintendent of Insurance	PERA Bldg. P.O. Drawer 1269 Santa Fe 87504-1269	505/827-4535

State	Name and Title	Address	Telephone
New York	James P. Corcoran Superintendent of Insurance	160 West Broadway New York 10013	212/602-0429
North Carolina	James E. Long Commissioner of Insurance	Dobbs Bldg. P.O. Box 26387 Raleigh 27611	919/733-7343
North Dakota	Earl R. Pomeroy Commissioner of Insurance	Capitol Bldg. Fifth Floor Bismarck 58505	701/224-2440
Ohio	Geroge Fabe Director of Insurance	2100 Stella Court Columbus 43266-0566	614/466-3584
Oklahoma	Gerald Grimes Insurance Commissioner	P.O. Box 53408 Oklahoma City 73152-3408 or 1901 North Walnut Oklahoma City 73105	405/521-2828
Oregon	Theodore "Ted" R. Kulongoski Insurance Commissioner	158-12th Street, NE Salem 97310	503/378-4271
Pennsylvania	Constance B. Foster Insurance Commissioner	Strawberry Square 13th Floor Harrisburg 17120	717/787-5173
Rhode Island	Mark A. Pfeiffer Insurance Commissioner	100 North Main Street Providence 02903	401/277-2246
South Carolina	John G. Richards V Chief Insurance Commissioner	1612 Marion Street P.O. Box 100105 Columbia 29202-3105	803/737-6117
South Dakota	Susan L. Walker Director of Insurance	Insurance Building 910 E. Sioux Avenue Pierre 57501	605/773-3563
Tennessee	Elaine A. McReynolds Commissioner of Insurance	1808 West End Avenue 14th Floor Nashville 37219-5318	615/741-2241
Texas	Lyndon L. Olson, Jr. Chairman — State Board of Insurance	1110 San Jacinto Blvd. Austin 78701-1998	512/463-6329

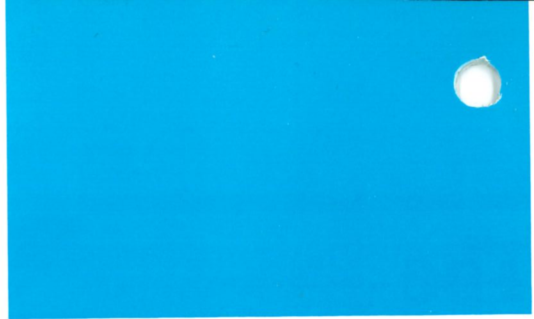
State	Name and Title	Address	Telephone
Texas	David H. Thornberry Member — State Board of Insurance	1110 San Jacinto Blvd. Austin 78701-1998	512/463-6330
Texas	James Nelson Member — State Board of Insurance	1110 San Jacinto Blvd. Austin 78701-1998	512/463-6332
Texas	Doyce R. Lee Commissioner of Insurance	1110 San Jacinto Blvd. Austin 78701-1998	512/463-6464
Utah	Harold C. Yancey Commissioner of Insurance	P.O. Box 45803 Salt Lake City 84145	801/530-6400
Vermont	Thomas P. Menson Commissioner of Insurance	State Office Building Montpelier 05602	802/828-3301
Virginia	Steven T. Foster Commissioner of Insurance	700 Jefferson Building P.O. Box 1157 Richmond 23209	804/786-3741
Virgin Islands	Derek M. Hodge Commissioner of Insurance	P.O. Box 450 Charlotte Amalie St. Thomas 00801	809/774-2991
Washington	Richard G. (Dick) Marquardt Insurance Commissioner	Insurance Building AQ21 Olympia 98504	206/753-7301
West Virginia	Fred E. Wright Insurance Commissioner	2100 Washington Street, E. Charleston 25305	304/348-3394
Wisconsin	Thomas P. Fox Commissioner of Insurance	P.O. Box 7873 Madison 53707 or 123 West Washington Ave. Madison 53702	608/266-0102
Wyoming	Gordon W. Taylor, Jr. Commissioner of Insurance	Herschler Building 122 West 25th Street Cheyenne 82002	307/777-7401
National Association rance issioners	Karl Koch Executive Vice President	1125 Grand Avenue Suite 1900 Kansas City, Missouri 64106	816/842-3600

AMERICAN NURSES' ASSOCIATION
2420 Pershing Road
Kansas City, Missouri 64108

Liability Insurance & You

What Registered Nurses Need To Know

9-5



In recent years, there has been a dramatic increase in the number of lawsuits filed against health care professionals. Although Registered Nurses are still named in relatively few cases, the new litigious environment has caused problems for all health professionals, including nurses, when it comes to securing professional liability insurance.

Your state nurses' association, in conjunction with the American Nurses' Association (ANA), would like to help you understand today's liability insurance environment — how to obtain adequate insurance protection, what to do if you're named in a lawsuit, and how to prevent nursing malpractice.

The Professional Liability Insurance Environment

Premiums for professional liability insurance have skyrocketed in recent years, not just for health care workers, but for other disciplines as well, as our society has become more and more prone to filing lawsuits.

Before the 1980s, Registered Nurses had virtually no problems in obtaining affordable professional liability insurance coverage. Now many of you are experiencing increases in insurance premiums—despite the fact that the number of lawsuits against nurses remains relatively low. In some instances, nurses in certain areas of practice can't find any coverage at all.

In 1985 Nurse midwives were dropped by the only remaining insurance company that was providing liability insurance to this group of nurses, and it took a national campaign to find coverage through a consortium of companies. Some nurse midwives were still forced out of business because the premium for the new policy was too high.

In 1986 Psychiatric and mental health nurses experienced problems in obtaining coverage. The situation which was remedied, but the crisis may return.

In 1987 Nurse practitioners found themselves with no avenue for coverage for a length of time. That situation has been remedied for most but not all segments of the nurse practitioner population.

1988 ...Categories of nurses that insurance companies perceive as "high risk" may experience problems in securing affordable coverage, and in some cases, any coverage at all.

Why are these problems occurring? Insurance companies cannot document any significant increase in the number of malpractice cases against nurses, but following are three of the most common reasons that they cite for the current upheaval.

1. There has been a significant increase in the number of health care-related lawsuits in this country.

   About six times as many malpractice cases were closed in 1984 than in 1975. There were 13 times the number of cases involving payment in 1984 than there were in 1975.

2. Registered nurses are expanding their roles. Today's nurses are doing more, and therefore are more vulnerable to being sued for a negligent action.

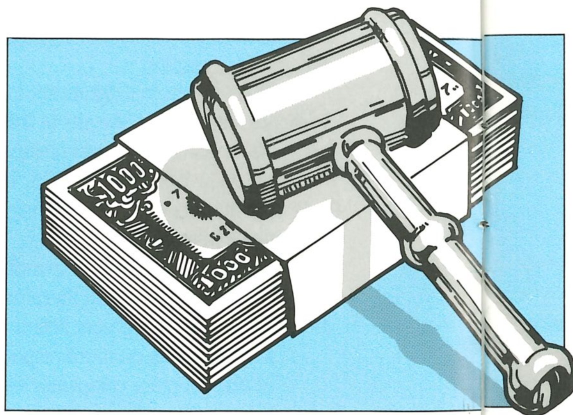
   A nurse taking on more responsibility—in the eyes of the insurance companies—resembles a physician,

a provider that continues to experience an overwhelming number of malpractice claims. In 1984, there were **1,650 physicians** sued per 10,000, compared to **5.2 nurses** sued per 10,000. Few insurance companies understand the distinction between medical practice and nursing practice. Some predict that "as go doctors, so will go nurses," and they raise premiums accordingly.

3. As physicians and health care institutions take policies with lower limits, insurance companies predict that nurses and other providers will be named in suits more often so plaintiffs can recover higher awards.

The cost for health care institutions' policies has increased dramatically. Current policies tend to have lower limits. A plaintiff may have to tap the resources of several providers and the resources of the institution itself in order to receive a high award.

It has become clear that RNs will not be spared the upheaval in the liability insurance area. Although available evidence seems to indicate that a small percentage are sued, insurance companies are predicting that this percentage will increase. Therefore, the companies continue to raise premiums and exclude categories of nurses from coverage.



A Brief Look At Malpractice Cases

An estimated **73,472** health care malpractice cases were closed in 1984, according to a U.S. General Accounting Office (GAO) report. This figure includes all health care malpractice cases, regardless of the health care workers involved. It is difficult to determine exactly how many of these cases named RNs, but the following information about the cases reveals some important trends.

Fifty-seven percent of the malpractice cases in 1984 were closed with no payment to the plaintiff. The claims that were closed involving payment, however, totaled $2.6 billion and ranged from one dollar to $2.5 million. The median amount paid was $18,000 — a figure which is derived after eliminating the very high and very low amounts. The average amount paid was $80,741.

Cases closed with a payment of $250,000 or more (about 9 percent of the claims) accounted for 61 percent of the total payments.

This GAO report also found that **injuries most frequently occurred in hospitals.** Three-quarters of the injuries involved the following alleged areas of negligence — surgical, diagnostic, treatment, or obstetrics. About 30 percent of the injuries resulted in "minor or temporary disabilities."

The average time that elapsed between the injury and the claim was 16 months. The average time from claim to final settlement was about 25 months. About half of the claims were closed after suit was filed but before trial, while five percent were resolved by court verdict. The cases involving severe injuries and large payments usually took longer to resolve.

Your Own Professional Liability Insurance — Is It Necessary?

Whether or not to carry your own individual professional liability insurance policy is a decision that each nurse should carefully weigh. You should take into account your personal assets and consider how they would hold up under the burden of some of the malpractice award amounts of today.

The American Nurses' Association recommends that every practicing Registered Nurse should carry his or her own professional liability insurance coverage.

The following myths about liability insurance often keep nurses from obtaining needed coverage:

Myth: "If I don't have insurance coverage, I won't get sued."

Reality: There is no evidence that suggests that carrying malpractice or professional liability insurance increases one's vulnerability to be a victim of legal action. With millions of dollars being awarded in malpractice suits every year, do you want to take the chance of having to pay an expense out of your own pocket?

Myth: "I'm adequately protected because I have co[illegible]ge through my employer."

Reality: Your employer only provides coverage for incidents that occur while you are on the job. A registered nurse can be held liable for health care-related actions off the job, especially if your state does not have a "Good Samaritan" law that would protect you if you were to assist someone in an emergency situation.

Also, the coverage that many employers provide for registered nurses is a claims-made policy. This means if suit is brought against you after you have left the facility, for an action that took place while you were there, then you may not be covered if you have not been carrying your own occurrence policy.

Even if the employer's policy covers you for a claim, the employer could turn around and sue you as an individual nurse for the legal fees. This rarely occurs, but is possible.

If you do not choose to have your own liability coverage, it is still important to investigate the nature of the policy that is protecting you. If you are covered by an agency, institution, or physician policy within your practice, you need to check the amount of coverage, whether it is a claims-made or occurrence policy, and whether it includes professional liability or only malpractice coverage.

You should obtain the abovementioned information in writing. You should also have your attorney check over the information and point out any loopholes that may leave you vulnerable in the event of a lawsuit.

Note: Registered Nurses who are employed by federal, state, or county facilities are often immune from malpractice lawsuits. This immunity only applies to the work setting, and often does not include personal liability.

Obtaining Coverage

If you have made the choice to secure your own professional liability insurance policy, there are several things you should consider as you shop for coverage:

Coverage Amounts —

If you are practicing in a "high risk" area such as obstetrics/gynecology, pediatrics, or if you are self-employed, then you should probably purchase the highest possible amount of coverage (usually $1 million to $3 million per year).

If you are obtaining coverage for general duty practice or other categories, shop around. Coverage amounts range from $100,000 to $1 million per year. Different companies charge different premiums for the same amount of coverage.

Type of Policy —

Are you purchasing an "occurrence" policy or a "claims-made" policy? (See glossary definitions.) If you are purchasing a claims-made policy, claims filed after the policy expires can often be covered by purchasing extended coverage known as "tail coverage."

Coverage for Administrators and Educators —

Nurses who are administrators and educators should make sure their policy will cover them for the wide range of activities in which they are involved.

Geographic Limitations —

Some programs you hear about may only be available in certain states. Many insurance companies also vary rates according to geographic region.

Choosing One Company Over Another —

For guidance in choosing an insurance policy, check with your professional nursing association. Many nursing organizations have staff who have analyzed the various policies available, and the organization often endorses a certain insurance administrator.

Other things to check include exclusions, acts covered, legal fees, and settlement clauses.

Maginnis and Associates of Chicago is the professional liability insurance administrator for the American Nurses' Association, many specialty nursing organizations, and almost all state nurses' associations. The Maginnis program offers coverage for all nurses except nurse midwives and nurse anesthetists.

Remember, all policies are different. You should carefully analyze the fine print before purchasing the policy. You should also inquire about the company's history in dealing with insureds, the company's rating, and whether defense costs are included. (Insurance companies are rated by the A.M. Best Company, an "A+" being the best possible rating.)

What to Do
If You Think You May Be Involved In A Lawsuit

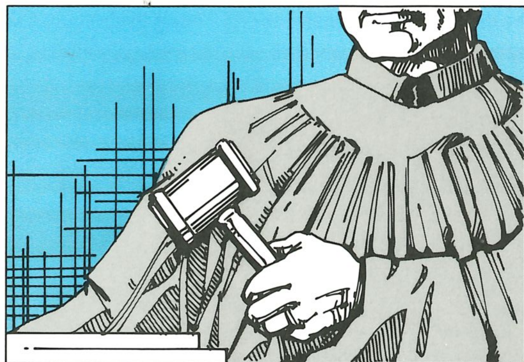
If you have been threatened with a lawsuit, if a formal claim has been brought against you, or if you think a claim might be brought against you:

1. Write your insurance administrator within the time frame specified on the policy. Give a full report of the incident in question, including time, date, persons involved. After the administrator receives this information, a claim file will be established and the information will be turned over to the insurance company, or underwriter.

2. Contact the National Nurses Claims Data Base, 2420 Pershing Rd., Suite 500, Kansas City, Mo. 64108. A copy of the report you sent to the insurance administrator (see #1) should be sufficient. This contact will enable you to access national data that may support your case, and your data will help other nurses involved in lawsuits. Your name and address will be kept confidential.

If, at a later date, you are served with a summons, a copy of the summons must be sent to the administrator. Your administrator should then establish a direct line of communication between you and an appointed attorney.

Remember, report the incident when it occurs! Lawsuits in some instances are brought five or more years after the occurrence. It's difficult after such a lengthy time to reconstruct an incident accurately.



Malpractice Prevention & Precautions

1 Be **Careful**
- Pay attention to detail.
- Document the actions you take and the time you take them.
- Stay alert to potential hazards and risks.

2 Be **Competent**
- Be skilled at what you do.
- Be aware of the specific standards for nursing practice in your specialty.

3 Be **Credentialed**
- Keep a current, valid license; appropriate evidence of training and education; and necessary certificates for your particular job.

4 Be **Certified** if you are practicing in a specialty area
- Complete and pass an approved certification test that shows you have made the extra effort to be knowledgeable in a specific practice area.
- Recertify when your time period runs out so that you keep up on new developments in your specialty of practice.

5 Be **Current Clinically**
- Keep abreast of what is new in your field.
- Take advantage of continuing education opportunities.

6 Be **Communicative**
- Maintain open, honest, objective and frequent verbal and written communication with patients, families, colleagues and management.

7 Be **Caring**
- Keep the human element in your job, regardless of what duties you are performing.

nother important part of malpractice prevention is adhering to the rules of the facility you work for and being mindful of national standards for nursing practice, such as those published by the American Nurses' Association.

In addition, you can take precautions in the following areas:

1. The accurate and timely reporting of all patient care matters

Correctly record amount of hemorrhage, EKG changes, intake and output, and other patient signs.

2. The observation of patient symptoms and reactions to treatments

Carefully observe the patient(s) in your care, whether you're a private duty nurse or you work on a crowded floor.

3. The supervisor of all of your subordinates who are involved in nursing care

Monitor as closely as possible the actions of any workers under your supervision. This could include orderlies, LPNs, nurses' aides, and others.

4. The carrying out of a physician's orders

You must always consider the reason for and effect of the treatment that has been ordered, and use your professional judgment in carrying out or questioning orders.

5. The comprehensive and timely health education of patients

If a patient leaving your care is to be expected to follow specific self-care instructions, make sure you have been clear about the instructions and the consequences of not following them.

6. The carrying out of nursing procedures

This can be a gray area, and it is often up to individual discretion what is considered a nursing procedure and what is not. Many times national nursing standards, hospital rules and procedures are the reference points for a case. However, a judge or jury not familiar with health care personnel protocols may be deciding the standard of care for nursing procedures.

7. The actions of your nursing students if you are a nursing educator

Make sure students under your instruction have been checked off on a procedure before they are allowed to practice that procedure on their own. Depending on the circumstances, you could be held liable for your students' actions.

8. The decisions you make and actions you take as a volunteer director or officer of a nursing organization

If you are in a decision-making position with a nursing organization, you can be held liable for the decisions made by that organization.

Summary

The increasing number of malpractice claims being filed in this country and the high amounts of awards to plaintiffs make it essential that nurses be mindful of risks. It has never been more crucial for nurses to carefully document their actions and take part in other malpractice prevention practices.

Because health care professionals are being sued more often, nurses must secure professional liability insurance protection that adequately covers their exposure. ANA and its constituent state nurses' associations (SNAs) can offer guidance to nurses in securing coverage.

Liability insurance premiums for nurses have risen so dramatically in recent years that ANA is examining new options for liability programs in the future, including the possibility of setting up a self-insured company for nurses. Regardless of what the future holds, each SNA, in conjunction with ANA, will continue to work to maintain affordable, adequate coverage for all segments of the Registered Nurse population.

Frequently Used Terms

Administrator—
a firm that is responsible for the record keeping, billing, and often marketing of an insurance program. They often serve as a clearinghouse for claims. In instances where an administrator is involved, the administrator is usually the insured's direct contact to obtain application or specifics about a policy. (For further clarification, see "Underwriter.")

Cap on Awards—
a maximum or cap set on the amount of monetary damages an injured party can be awarded in a lawsuit. Usually caps are proposed for non-economic damages such as pain and suffering.

"Captive" Insurance Company—
an insurance company that is owned by its insured members.

"Claims-made" Insurance Policy—
insurance that provides coverage for claims made and reported during the current policy period. As long as the policy is renewed uninterrupted, coverage is provided back to the beginning date of the first policy. Additional coverage, known as "tail coverage," can be purchased to protect you after the originai policy period has ended.

Contingency Fee—
a method of payment of attorney fees based on a percentage of the judgement received. In its purest form the attorney receives no fee unless he wins the suit.

Insu[illegible]—
Person or persons named as the holders of an insurance policy.

Joint and Several Liability—
a legal doctrine that is used in 80 percent of the states. It means that in cases where there is more than one defendant, each defendant is liable for the full amount of any judgement awarded the injured party, even if the defendant did not cause all of the plaintiff's damages.

Joint Underwriting Authority—
a state-regulated body that provides insurance coverage for groups of persons who are unable to obtain coverage through an individual insurance company. Approximately 26 states have joint underwriting authorities, and some of these have agreed to accept nurse practitioners recently. However, the costs of being included in this arrangement are often prohibitive, and it is rarely viewed as a long term solution for any group of insureds.

Limits of Coverage—
the maximum amount of claims that will be paid under an insurance policy. Liability insurance has two limits—one for the maximum amount that will be paid for any single incident and a second for the maximum amount that will be paid for all claims under that policy in a given year. (Example: $1,000,000/$3,000,000 allows for coverage of $1 million per incident and maximum amount of $3 million per year.)

Malpractice—
alleged failure on the part of a professional to render services with that degree of care, diligence, and precaution that another member of the same profession in similar circumstances would render to prevent injury to someone else.

Malpractice Prevention—
the conscious effort by a professional to reduce the chance of being sued for malpractice.

Negligence—
failure to observe, doing or failing to do that which a reasonable and prudent person would for the protection and interests of another person; failure to exercise that degree of care and precaution that an individual under similar circumstances should observe, do, or fail to do in order to prevent injury.

"Occurrence" Insurance Policy—
insurance that covers incidents that occur during the period for which premiums are paid, regardless of whether or not the insured has maintained the policy.

Professional Liability Insurance Coverage—
coverage that goes beyond protection for malpractice and includes protection for various incidents that are not directly related to health care services. Extent of coverage depends on policy.

Risk Management—
the practice of surveying a risk for potential sources of lawsuits and implementing actions designed to reduce injury.

Risk Retention Group—
an insurance company that is owned by its insured members (self-insured) and licensed in one state as a liability insurer. It may offer liability coverage on a direct basis to its members throughout the U.S. Risk Retention Groups are exempt from many (but not all) of the insurance restrictions preventing insurers from doing business in states where they have not been admitted. This "exempt" status, made possible by the Liability Risk Retention Act of 1986, helps assure the availablity and affordability of a program to residents of various states. The "group" does not have to have prior existence, and may be formed for the purpose of setting up the Risk Retention Group.

Risk Retention Purchase Group (or "Purchase Group") —
a group that is formed and set up in one state to purchase liability coverage from an insurance company, in order to take advantage of provisions in the Liability Risk Retention Act of 1986. Purchasing groups are often set up to provide coverage to persons in several states without having to go through all the procedures to be admitted in each state. The results are cost savings and increased availability of the program. The difference between a purchasing group and a risk retention group is that the purchasing group is not self-insured, but the risk retention group is. (See "Risk Retention Group" for further clarification.)

Standard of Care —
acts performed that any other ordinary and prudent professional would have performed under the same or similar circumstances; the criterion for which professional performance is measured.

Statute of Limitations —
the period of time allowed in which a lawsuit can be filed. This is set by law and varies in accordance with the tort.

"Tail" Coverage —
liability insurance coverage that is purchased with a claims-made policy to cover gaps in coverage that exist due to the nature of a claims-made policy. For example, if you are cancelling a claims-made policy, you may want to purchase a few years of coverage to start immediately after the expiration date.

Tort —
a civil wrongdoing.

Tort Reform* —
altering the language regarding punishment for to[rts] through legislative efforts. Three major goals of tort reform are 1) returning the tort system to a primary concern with genuine fault; 2) structuring damage awards which bear some predictable and reasonable relationship to actual economic injury; and 3) deterring frivolous litigation and preventing unfair, windfall legal fees for plaintiffs' attorneys.

Tort System —
the part of the judicial system designed to redress civil wrongs (torts) that result in injuries to persons or their property, e.g. negligence, malpractice, slander.

Underwriter —
the insurance company that actually underwrites, or assumes financial responsibility for, an insurance program or policy. If an administrator is involved, then the underwriter often forfeits direct contact with the insured.

*The American Nurses' Association has a neutral position regarding tort reform. ANA's constituent state nurses' associations are choosing on a state by state basis whether they are for or against various tort reform efforts. ANA, however, does advise state associations and individual nurses to obtain legal counsel about the implications of tort reform legislation before pledging support. Some tort reform efforts have been found to adversely affect nurses because the action would "pool" nurses together with higher risk health professionals.

STATE NURSES' ASSOCIATIONS

Alabama State Nurses' Assn.
360 North Hull St.
Montgomery, AL 36197

Alaska Nurses Assn.
237 East Third Ave.
Anchorage, AK 99501

Arizona Nurses' Assn.
1850 E. Southern Ave.
Tempe, AZ 85282

Arkansas State Nurses' Assn.
117 South Cedar St.
Little Rock, AR 72205

California Nurses Assn.
1855 Folsom St., Room 670
San Francisco, CA 94103

Colorado Nurses' Assn.
5453 E. Evans Place
Denver, CO 80222

Connecticut Nurses' Assn.
1 Prestige Dr.
Meriden, CT 06450

Delaware Nurses' Assn.
2634 Capitol Trail — Ste C
Newark, DE 19711

Dist. of Columbia Nurses' Assn.
5100 Wisconsin Ave., N.W./#306
Washington, DC 20016

Florida Nurses Assn.
1235 E. Concord St.
Orlando, FL 32803

Georgia Nurses Assn.
1362 W. Peachtree St., N.W.
Atlanta, GA 30309

Guam Nurses Association
P.O. Box 3134
Agana, Guam 96910

Hawaii Nurses' Association
677 Ala Moana Blvd., Ste 601
Honolulu, HI 96813

Idaho Nurses Assn.
1134 North Orchard, Ste. 8
Boise, ID 83706

Illinois Nurses' Assn.
20 N. Wacker Dr., Ste 2520
Chicago, IL 60606

Indiana State Nurses' Assn.
2915 N. High School Rd.
Indianapolis, IN 46224

Iowa Nurses' Assn.
Shops Bldg., Room 215
Des Moines, IA 50309

Kansas State Nurses' Assn.
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Topeka, KS 66612

Kentucky Nurses Assn.
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Louisville, KY 40208-8342

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Metairie, LA 70001

Maine State Nurses' Assn.
P.O. Box 2240
Augusta, ME 04330

Maryland Nurses Assn.
5820 Southwestern Blvd.
Baltimore, MD 21227

Massachusetts Nurses Assn.
376 Boylston St.
Boston, MA 02116

Michigan Nurses Assn.
120 Spartan Ave.
East Lansing, MI 48823

Minnesota Nurses Assn.
1821 University Ave.
Griggs-Midway Blvd, Ste 377
St. Paul, MN 55104

Mississippi Nurses' Assn.
135 Bounds St., Ste 100
Jackson, MS 39206

Missouri Nurses Assn.
206 East Dunklin St., Box 325
Jefferson City, MO 65101

Montana Nurses' Assn.
715 Getchell
Helena, MT 59604

Nebraska Nurses' Assn.
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Lincoln, NE 68508

Nevada Nurses' Assn.
3660 Baker Lane, Ste 104
Reno, NV 89509

New Hampshire Nurses' Assn.
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Concord, NH 03301

New Jersey State Nurses Assn.
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Trenton, NJ 08618

New Mexico Nurses Assn.
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Albuquerque, NM 87108

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2113 Western Ave.
Guilderland, NY 12084

North Carolina Nurses Assn.
103 Enterprise St., Box 12025
Raleigh, NC 27605

North Dakota State Nurses Assn.
212 North Fourth St.
Bismarck, ND 58501

Ohio Nurses Association
4000 E. Main St., Box 13169
Columbus, OH 43213

Oklahoma Nurses Association
6414 North Santa Fe, Ste. A
Oklahoma City, OK 73116

Oregon Nurses Assn.
9700 S.W. Capitol Hwy, Ste 200
Portland, OR 97219

Pennsylvania Nurses Assn.
2578 Interstate Drive
Harrisburg, PA 17110

Rhode Island Nurses' Assn.
345 Blackstone Blvd.
Hall Bldg. South
Providence, RI 02906

South Carolina Nurses' Assn.
1821 Gadsden Street
Columbia, SC 29201

South Dakota Nurses' Assn.
1505 South Minnesota, Ste #6
Sioux Falls, SD 57105

Tennessee Nurses' Association
1720 West End Bldg., Ste #400
Nashville, TN 37203

Texas Nurses Association
Community Bank Bldg. Ste 300
300 Highland Mall Blvd.
Austin, Texas 78752-3718

Utah Nurses' Association
1058A E. 900 South
Salt Lake City, UT 84105

Vermont State Nurses Assn.
500 Dorset St.
South Burlington, VT 05403

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P.O. Box 2866
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83 South King St., Suite 500
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