

Approved 2-14-89  
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 February 6, 1989 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Richard Gannon, Executive Director, Kansas State Board of Healing Arts  
Robert Runnels, Jr., Kansas Catholic Conference  
Carl Meyers, President of Kansas National Social Workers Association  
Pat Ireland, Issues Representative, Society of Clinical Workers  
Steve Paige, Director of Food, Drug & Lodging, Dept. Health & Environment

The Chairman called the committee's attention to minutes of January 23, 24, 25 and 26 which will be corrected or approved on Tuesday.

The chairman called for introduction of requests for committee bills.

Richard Gannon, Kansas Board of Healing Arts, requested the introduction of five bills by the committee.

- 1) Concerning writing of prescriptions for anabolic steroids or human growth hormones for any purpose other than a valid medical purpose. (Attachment 1)
- 2) Relating to registration, fees and other items concerning Physician Assistants. (Attachment 2)
- 3) Concerning licensees of the healing arts (Attachment 3)
- 4) Concerning respiratory therapy practice fees. (Attachment 4)
- 5) Controlled substance reporting as concerns "professional" patients

Senator Burke made the motion, seconded by Senator Vidricksen to introduce the bills proposed by Director Gannon. The motion carried.

Robert Runnels spoke concerning SB-98 stating his support of language changes that would require out of state insurance companies to reimburse clients who elect to use the counseling services of Licensed Clinical Social Workers in Psychotherapy, affording them the same protection afforded psychologists and medical doctors in 1984. (Attachment 5)

Carl Myers spoke to the committee stating that the support of the Kansas Chapter of the National Association of Social Workers supported SB-98. Mr. Myers, in the interest of time, deferred to Mrs. Pat Ireland who is the organization's issue specialist and also would be representing the Kansas Society for Clinical Social Workers.

Mrs. Pat Ireland told the committee that SB-98 would eliminate problems with the current insurance laws which give health care consumers the freedom to choose psychotherapists from qualified licensed providers, including clinical social workers. Generally the law is working well. However, in situations where the insurance is held by an out of state company, the health care consumer does not have the freedom to choose a clinical social worker. When this situation occurs the clinical social worker is not allowed to fairly compete with psychologists or psychiatrists because it doesn't make economic sense to choose a provider whom your insurance does not cover. (Attachment 6) The "freedom of choice" statute allows the policyholder to "refuse in writing" coverage for clinical social workers. Although this provision is little used, the elimination of the clause would make the statute for clinical social workers consistent with

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 526-S, Statehouse, at 10:00 a.m. ~~pm~~ on February 6, 1989

the freedom of choice statute for all other providers and in the future, would eliminate potential for problems. Mrs. Ireland told the committee that in some areas, such as sexual abuse, the clinical social workers are better trained.

Steve Paige, Department of Health and Environment spoke to the committee in support of SB-103 stating the passage of this bill would result in amendments of the Kansas laws directed at the manufacture and resale of bedding. (Attachment 7) Senate Bill 103 would eliminate public health hazards associated with the resale of bedding in quantities but would not affect individual sales.

Senator Hayden moved, with a second by Senator Anderson, to place Senate Bill 103 on the consent calendar. The motion carried.

The meeting was adjourned at 10:35 a.m. and will convene at 10:00 a.m. on Tuesday, February 7, 1989 in room 526-S.

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE February 6, 1989

(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

Ken Bahr - Topeka	Ks. Assn of Prof. Psychologists
JACK ROBERTS "	BC-BS
David M. Klotz "	Assoc of CMHCs of Ks, Inc.
Allyn D. Johnson "	SRS
Debbie Bird	MOP
Ronald H.	MOP
Larry Swearing	Identifying Arts
RICHARD G. GANNON	
Bob Runnels	Ks. Cath. Conf.
Pat Ireland Pat Ireland	Ks Society for Clinical Social Work & Ks NASW
Bruce Lutes	" " "
Carl Meyer	KANSAS chapter (NASW)
Gigi Jely	NATIONAL ASSOCIATION OF SOCIAL WORK
Bob Corkins	"
Steve Paige	Ks. Hospital Association
Terri Roberts	KDHF
Neil STEVENSON	Kansas State Nurses' Assn.
Bob Williams	N.A.S.W.
KETH R LANDIS	Ks. Pharmacists Assoc.
David Hanson	CHRISTIAN SCIENCE COMMITTEE
Anne Smith	- IN PUBLICATION FOR KANSAS
	Ks LIFE ASSOC.
	H. Ebert - KAMPT

\_\_\_\_\_ BILL NO. \_\_\_\_\_

By

AN ACT concerning anabolic steroids; declaring certain acts to be unlawful and providing penalties for violations.

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

Section 1. (a) It shall be unlawful for any person:

(1) To prescribe, dispense, deliver or administer an anabolic steroid or a human growth hormone or deliver a prescription order for an anabolic steroid or a human growth hormone to a person for human use for any purpose other than a valid medical purpose and in the course of professional practice;

(2) to prescribe, dispense or deliver an anabolic steroid or a human growth hormone for human use without the written prescription of a practitioner; or

(3) except for a pharmacist or practitioner to possess over 250 tablets or 16 cubic centimeters of an anabolic steroid or a human growth hormone or combination of anabolic steroids or human growth hormones.

(b) Any person who violates subsection (a) shall be guilty of a class E felony, except that, upon conviction for the second offense, such person shall be guilty of a class D felony, and upon conviction for a third or subsequent offense, such person shall be guilty of a class C felony.

(c) Words and phrases used in this section shall have the same meaning as is ascribed to such words and phrases under K.S.A. 65-1626 and amendments thereto. The term "valid medical purpose" shall not include the use of an anabolic steroid or human growth hormone for bodybuilding, muscle enhancement or increasing bulk or strength by a person who is in good health.

(d) This section shall be part of and supplemental to the Kansas criminal code.

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

*SPH/vw  
2-6-89  
Attachment 1*

\_\_\_\_\_ BILL NO. \_\_\_\_\_

By

AN ACT concerning physicians' assistants; relating to the registration thereof; establishing certain fees; amending K.S.A. 65-2896b and K.S.A. 1988 Supp. 65-2896 and 65-2896a and repealing the existing sections.

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

Section 1. K.S.A. 1988 Supp. 65-2896 is hereby amended to read as follows: 65-2896. (a) The state board of healing arts shall maintain a register of the names of physicians' assistants registered in accordance with the provisions of K.S.A. 65-2896a and amendments thereto. ~~A fee of not more than \$75 shall be charged for the initial registration. All registrations, except temporary registration, shall be renewed annually and the renewal fee shall not exceed \$10.~~

(b) All registrations, except temporary registration, shall expire on the date of expiration established by rules and regulations of the state board of healing arts and may be renewed annually upon request of the registrant. The request for renewal shall be on a form provided by the state board of healing arts and shall be accompanied by the renewal fee established pursuant to this section, which shall be paid not later than the expiration date of the registration.

(c) At least 30 days before the expiration of the registration of a physician assistant, except temporary registration, the state board of healing arts shall notify the registrant of the expiration by mail addressed to the registrant's last place of residence as noted upon the office records of the board. If the registrant fails to pay the renewal fee by the date of expiration of the registration, the registrant shall be given a second notice that the registrant's registration has expired and the registration may be renewed only if the

SP/W  
2-6-89  
Attachment 2

renewal fee and the late renewal fee are received by the state board of healing arts within the 30-day period following the date of expiration and that, if both fees are not received within the 30-day period, the registration shall be considered to have lapsed for failure to renew and shall be reissued only after the physician assistant has been reinstated under subsection (d).

(d) Any registrant who allows the registrant's registration to lapse by failing to renew as herein provided may be reinstated upon recommendation of the state board of healing arts and upon payment of the renewal fee and the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable reeducation and continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate reeducation and continuing education requirements for reinstatement of persons whose registrations have lapsed for failure to renew.

(e) The following fees shall be fixed by rules and regulations adopted by the state board of healing arts and shall be collected by the board:

*amend*  
(1) For registration as a physician assistant, the sum of not more than ~~\$150~~; \$100

(2) for temporary registration as a physician assistant, the sum of not more than \$30;

(3) for the renewal of registration as a physician assistant, the sum of not more than \$75;

(4) for the late renewal of registration as a physician assistant, the sum of not more than \$250;

(5) for reinstatement of a physician assistant whose name has been removed from the register, the sum of not more than \$250;

(6) for a certified statement from the board that a physician assistant is registered in this state, the sum of not more than \$30; and

(7) for a copy of the registration certificate of a physician assistant, the sum of not more than \$25.

(f) The state board of healing arts shall remit all moneys

received by or for the board under the provisions of this act to the state treasurer and such money shall be deposited in the state treasury, credited to the state general fund and the healing arts fee fund and expended all in accordance with K.S.A. 65-2855 and amendments thereto.

(g) The state board of healing arts may adopt rules and regulations necessary to carry out the provisions of this act and the act of which this section is amendatory.

Sec. 2. K.S.A. 1988 Supp. 65-2896a is hereby amended to read as follows: 65-2896a. (a) No person's name shall be entered on the register of physicians' assistants by the state board of healing arts unless such person has:

~~(1) Presented--to--the--state--board--of--healing--arts--proof--of--graduation--from--an--accredited--high--school--or--the--equivalent thereof;--and~~

~~(2)~~ Presented to the state board of healing arts proof that the applicant has successfully completed a course of education and training approved by the state board of healing arts for the education and training of physicians' assistants, which course of education and training shall be substantially in conformity with educational and training programs for physicians' assistants approved by the state board of regents, or presented to the state board of healing arts proof that the applicant has acquired experience while serving in the armed forces of the United States which experience meets minimum requirements established by the state board of healing arts;

~~(3)~~ (2) passed an examination approved by the state board of healing arts covering subjects incident to the education and training of physicians' assistants; and

~~(4)~~ (3) presented to the state board of healing arts the name and address of the applicant's responsible physician a request signed by the applicant's proposed responsible physician on a form provided by the board which shall contain such information as required by rules and regulations adopted by the board.

(b) The board may refuse to enter a person's name on the

register of physicians' assistants upon any of the grounds for which the board may remove a person's name from such register.

{b} (c) A physician's assistant shall at the time of initial registration and any renewal thereof present to the state board of healing arts the name and address of such person's responsible physician. Whenever a physician's assistant shall cease to be employed by the responsible physician, such responsible physician shall notify the state board of healing arts of such termination. Whenever a physician's assistant shall ~~be-employed-by-a~~ seek to obtain a new responsible physician prior to the renewal of the physician's assistant's annual registration, such proposed responsible physician shall notify the state board of healing arts of such prospective employment and shall provide a request as required by subsection (a)(3). All such notifications shall be given to the state board of healing arts as soon as practicable but not ~~to-exceed-a-period-of-10-days~~ after-employment-or-termination be less than 10 days prior to the prospective date of employment.

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

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

Sec. 3. K.S.A. 65-2896b is hereby amended to read as follows: 65-2896b. (a) The board of healing arts may remove a



person's name from the register of physicians' assistants for any of the following reasons:

(1) The person whose name is entered on the register of physicians' assistants requests or consents to the removal thereof; or

(2) the board of healing arts determines that the person whose name is entered on the register of physicians' assistants has not been employed as a physician's assistant or as a teacher or instructor of persons being educated and trained to become physicians' assistants in a course of education and training approved by the state board of healing arts under K.S.A. 65-2896a and amendments thereto at some time during the five years immediately preceding the date of such determination;

(3) if the board determines, after notice and opportunity to be heard, in accordance with the provisions of the Kansas administrative procedure act, that a physician's assistant has violated any provision of K.S.A. 65-2896 to 65-2897a, inclusive, and amendments thereto, or any rules and regulations adopted pursuant thereto; or

(4) if the board determines, after notice and opportunity to be heard, in accordance with the provisions of the Kansas administrative procedure act, that the request by the proposed responsible physician pursuant to subsection (b) of K.S.A. 65-2896a and amendments thereto should not be approved.

(b) The board of healing arts may remove a person's name from the register of physicians' assistants or may refuse to place a person's name on the register of physicians' assistants, if the board determines, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, that a physician's assistant has exceeded or has acted outside the scope of authority given the physician's assistant by the responsible physician or by this act.

Sec. 4. K.S.A. 65-2896b and K.S.A. 1988 Supp. 65-2896 and 65-2896a are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

\_\_\_\_\_ BILL NO. \_\_\_\_\_

By

AN ACT amending the Kansas healing arts act; concerning licensees of the healing arts; amending K.S.A. 65-2862 and K.S.A. 1988 Supp. 65-2836, 65-2837, 65-2844 and 65-2895 and repealing the existing sections; also repealing K.S.A. 65-2830.

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

Section 1. K.S.A. 1988 Supp. 65-2836 is hereby amended to read as follows: 65-2836. A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured, upon a finding of the existence of any of the following grounds:

(a) The licensee has committed fraud or misrepresentation in applying for or securing an original or renewal license.

(b) The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency.

(c) The licensee has been convicted of a felony or class A misdemeanor, whether or not related to the practice of the healing arts.

(d) The licensee has used fraudulent or false advertisements.

(e) The licensee is addicted to or has distributed intoxicating liquors or drugs for any other than lawful purposes.

(f) The licensee has willfully or repeatedly violated this act, the pharmacy act of the state of Kansas or the uniform controlled substances act, or any rules and regulations adopted pursuant thereto, or any rules and regulations of the secretary of health and environment which are relevant to the practice of the healing arts.

(g) The licensee has unlawfully invaded the field of practice of any branch of the healing arts in which the licensee

SPd/kw  
2-6-89  
Attachment 3

is not licensed to practice.

(h) The licensee has failed to pay annual renewal fees specified in this act.

(i) The licensee has failed to take some form of postgraduate work each year or as required by the board.

(j) The licensee has engaged in the practice of the healing arts under a false or assumed name, or the impersonation of another practitioner. The provisions of this subsection relating to an assumed name shall not apply to licensees practicing under a professional corporation or other legal entity duly authorized to provide such professional services in the state of Kansas.

(k) The licensee has the inability to practice the branch of the healing arts for which the licensee is licensed with reasonable skill and safety to patients by reason of illness, alcoholism, excessive use of drugs, controlled substances, chemical or any other type of material or as a result of any mental or physical condition. In determining whether or not such inability exists, the board, upon ~~probable--cause~~ reasonable suspicion of such inability, shall have authority to compel a licensee to submit to mental or physical examination or drug screen by such persons as the board may designate. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such examination or drug screen. A person affected by this subsection shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of the healing arts with reasonable skill and safety to patients. For the purpose of this subsection, every person licensed to practice the healing arts and who shall accept the privilege to practice the healing arts in this state by so practicing or by the making and filing of an annual renewal to practice the healing arts in this state shall be deemed to have consented to submit to a mental or physical examination or a drug screen when directed in writing by the board and further to have waived all objections to the admissibility of the testimony, drug screen or examination report

of the person conducting such examination or drug screen at any proceeding or hearing before the board on the ground that such testimony or examination or drug screen report constitutes a privileged communication. In any proceeding by the board pursuant to the provisions of this subsection, the record of such board proceedings involving the mental and physical examination or drug screen shall not be used in any other administrative or judicial proceeding.

(l) The licensee has had a license to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(m) The licensee has violated any lawful rule and regulation promulgated by the board or violated any lawful order or directive of the board previously entered by the board.

(n) The licensee has failed to report or reveal the knowledge required to be reported or revealed under K.S.A. 65-28,122 and amendments thereto.

(o) The licensee, if licensed to practice medicine and surgery, has failed to inform a patient suffering from any form of abnormality of the breast tissue for which surgery is a recommended form of treatment, of alternative methods of treatment specified in the standardized summary supplied by the board. The standardized summary shall be given to each patient specified herein as soon as practicable and medically indicated following diagnosis, and this shall constitute compliance with the requirements of this subsection. The board shall develop and distribute to persons licensed to practice medicine and surgery a standardized summary of the alternative methods of treatment known to the board at the time of distribution of the standardized summary, including surgical, radiological or chemotherapeutic treatments or combinations of treatments and the

risks associated with each of these methods. Nothing in this subsection shall be construed or operate to empower or authorize the board to restrict in any manner the right of a person licensed to practice medicine and surgery to recommend a method of treatment or to restrict in any manner a patient's right to select a method of treatment. The standardized summary shall not be construed as a recommendation by the board of any method of treatment. The preceding sentence or words having the same meaning shall be printed as a part of the standardized summary. The provisions of this subsection shall not be effective until the standardized written summary provided for in this subsection is developed and printed and made available by the board to persons licensed by the board to practice medicine and surgery.

(p) The licensee has cheated on or attempted to subvert the validity of the examination for a license.

(q) The licensee has been found to be mentally ill, disabled, not guilty by reason of insanity or incompetent to stand trial by a court of competent jurisdiction.

(r) The licensee has prescribed, sold, administered, distributed or given a controlled substance to any person for other than medically accepted or lawful purposes.

(s) The licensee has violated a federal law or regulation relating to controlled substances.

(t) The licensee has failed to furnish the board, or its investigators or representatives, any information legally requested by the board.

(u) Sanctions or disciplinary actions have been taken against the licensee by a peer review committee, health care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(v) The licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care

facility, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(w) The licensee has surrendered a license or authorization to practice the healing arts in another state or jurisdiction, has surrendered the authority to utilize controlled substances issued by any state or federal agency, has agreed to a limitation to or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

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

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

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

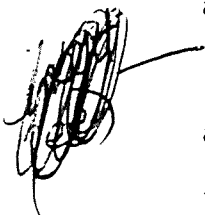
(aa) The licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a and amendments thereto.

(bb) The licensee has failed to pay the annual premium

surcharge as required by K.S.A. 40-3404 and amendments thereto.

(cc) The licensee has knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill or statement.

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

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

(a) "Professional incompetency" means:

(1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board.

(2) Repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board.

(3) A pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice medicine.

(b) "Unprofessional conduct" means:

(1) Solicitation of professional patronage through the use of fraudulent or false advertisements, or profiting by the acts of those representing themselves to be agents of the licensee.

(2) Representing to a patient that a manifestly incurable disease, condition or injury can be permanently cured.

(3) Assisting in the care or treatment of a patient without the consent of the patient, the attending physician or the patient's legal representatives.

(4) The use of any letters, words, or terms, as an affix, on stationery, in advertisements, or otherwise indicating that such person is entitled to practice a branch of the healing arts for which such person is not licensed.

(5) Performing, procuring or aiding and abetting in the performance or procurement of a criminal abortion.

(6) Willful betrayal of confidential information.

(7) Advertising professional superiority or the performance of professional services in a superior manner.

(8) Advertising to guarantee any professional service or to perform any operation painlessly.

(9) Participating in any action as a staff member of a medical care facility which is designed to exclude or which results in the exclusion of any person licensed to practice medicine and surgery from the medical staff of a nonprofit medical care facility licensed in this state because of the branch of the healing arts practiced by such person or without just cause.

(10) Failure to effectuate the declaration of a qualified patient as provided in subsection (a) of K.S.A. 65-28,107 and amendments thereto.

(11) Prescribing, ordering, dispensing, administering, selling, supplying or giving any amphetamines or sympathomimetic amines, except as authorized by K.S.A. 65-2837a and amendments thereto.

(12) Conduct likely to deceive, defraud or harm the public.

(13) Making a false or misleading statement regarding the licensee's skill or the efficacy or value of the drug, treatment or remedy prescribed by the licensee or at the licensee's direction in the treatment of any disease or other condition of the body or mind.

(14) Aiding or abetting the practice of the healing arts by an unlicensed, incompetent or impaired person.

(15) Allowing another person or organization to use the licensee's license to practice the healing arts.

(16) Commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice.

(17) The use of any false, fraudulent or deceptive statement in any document connected with the practice of the



healing arts.

(18) Obtaining any fee by fraud, deceit or misrepresentation.

(19) Directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually and personally rendered, other than through the legal functioning of lawful professional partnerships, corporations or associations.

(20) Failure to transfer medical records to another physician when requested to do so by the subject patient or by such patient's legally designated representative.

(21) Performing unnecessary tests, examinations or services which have no legitimate medical purpose.

(22) Charging an excessive fee for services rendered.

(23) Prescribing, dispensing, administering, distributing a prescription drug or substance, including a controlled substance, in an excessive, improper or inappropriate manner or quantity or not in the course of the licensee's professional practice.

(24) Repeated failure to practice healing arts with that level of care, skill and treatment which is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances.

(25) Failure to keep written medical records which describe the services rendered to the patient, including patient histories, pertinent findings, examination results and test results.

(26) Delegating professional responsibilities to a person when the licensee knows or has reason to know that such person is not qualified by training, experience or licensure to perform them.

(27) Using experimental forms of therapy without proper informed patient consent, without conforming to generally accepted criteria or standard protocols, without keeping detailed legible records or without having periodic analysis of the study and results reviewed by a committee or peers.

*delete*

~~28) Delegating to or allowing any person the authority to write a prescription order for any prescription-only drug.~~

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

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

(d) "Advertisement" means all representations disseminated in any manner or by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of professional services.

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

*amend*

Sec. 4. K.S.A. 65-2862 is hereby amended to read as follows: 65-2862. Any person violating any of the provisions of this act, except as specific penalties are herein otherwise imposed, shall be deemed guilty of a class A misdemeanor and upon conviction--thereof--shall--pay--a--fine--of--not--less--than--fifty dollars--(\$50)--nor--more--than--two--hundred--dollars--(\$200)--for--each separate--offense, and a person for a second or subsequent violation of any of the provisions of this act, wherein another specific penalty is not expressly imposed, shall be deemed guilty

*amend*

of a class <sup>E felony</sup> ~~a misdemeanor~~ and upon conviction thereof shall pay a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each separate offense.

Sec. 5. K.S.A. 1988 Supp. 65-2895 is hereby amended to read as follows: 65-2895. (a) There is hereby created a designation of institutional license which may be issued by the board to a person who 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 who is employed by the department of social and rehabilitation services or, employed by any institution within the department of corrections or employed pursuant to a contract entered into by the department of social and rehabilitation services or the department of corrections with a third party. An applicant for an institutional license shall pass an examination in the basic sciences approved by the board. The institutional license shall confer upon the holder the right and privilege to practice that branch of the healing arts in which the holder of the institutional license is proficient and shall obligate the holder to comply with all requirements of such license. The practice privileges of institutional license holders are restricted as follows: The institutional license shall be valid only during the period in which the holder is employed by the department of social and rehabilitation services or, employed by any institution within the department of corrections or employed pursuant to a contract entered into by the department of social and rehabilitation services or the department of corrections with a third party, and only within the institution to which the holder is assigned.

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

and amendments thereto and has submitted evidence of satisfactory completion of a program of continuing education required by the board. The board shall require each applicant for renewal of an institutional license under this section to submit evidence of satisfactory completion of a program of continuing education required by the board of licensees of the branch of the healing arts in which the applicant is proficient.

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

Sec. 6. K.S.A. 65-2830 and 65-2862 and K.S.A. 1988 Supp. 65-2836, 65-2837, 65-2844 and 65-2895 are hereby repealed.

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

By

AN ACT concerning the respiratory therapy practice act; amending  
K.S.A. 1988 Supp. 65-5509 and repealing the existing section.

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

Section 1. K.S.A. 1988 Supp. is hereby amended to read as follows: 65-5509.

The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:

Application fee, not more than.....	\$ 40
Examination fee, not more than.....	<del>100-</del> <u>250</u>
Temporary registration fee, not more than.....	40
Special permit fee, not more than.....	40
Registration renewal fee, not more than.....	20
Registration late renewal fee, not more than.....	40
Registration reinstatement fee, not more than.....	40
Certified copy of registration, not more than.....	20

Section 2. K.S.A. 1988 Supp. 65-5509 is hereby repealed.

Section 3. This act shall take effect and be in force from and after its publication in the statute book.

*SP/4W  
2-6-89  
Attachment 4*

TESTIMONY

SENATE BILL 98

Senate Public Health and Welfare Committee  
Monday, February 6, 1989

KANSAS CATHOLIC CONFERENCE  
By: Robert Runnels, Jr., Executive Director

Mr. Chairman, Members of the Senate Public Health and Welfare Committee, my name is Bob Runnels, I am Executive Director of the Kansas Catholic Conference.

I am here today to support some language changes that will require out of state insurance companies to reimburse clients who elect to use the counseling services of Licensed Clinical Social Workers in Psychotherapy. Psychologists, Medical Doctors, already have this protection from a bill passed in 1984.

Licensed Clinical Social Workers perform the same services as psychologists. For clients who use their services their charges are at a lower rate. In-state insurance companies do reimburse policy holders ... it is only out-of-state insurance that insure Kansans that may refuse to pay.

There is a broad range of agencies which support and need this correction. I speak on behalf of Catholic Charities who do a great deal of this type work in Kansas.

For those family members who require counseling assistance we seek your support of the change that would extend payment to Licensed Clinical Social Workers.

S P/H/W  
2-6-89  
Attachment 5

Purpose of the Proposed Revisions

The proposed revisions would eliminate problems with the current insurance laws which give health care consumers the freedom to choose psychotherapists from qualified licensed providers, including clinical social workers. Generally, the law pertaining to clinical social workers is working very well. Since 1982, Kansas law has required reimbursement of licensed clinical social workers for psychotherapy by insurance policies delivered within the state. However, in some situations where the insurance is held by an out of state company, the health care consumer does not have the freedom to choose a clinical social worker. Likewise, in those situations, the clinical social worker is not allowed to fairly compete with psychologists or psychiatrists because it doesn't make economic sense to choose a provider whom your insurance does not cover.

Problem and Proposed Revision

1. K.S.A. 40-2,103: This out of state coverage problem exists because of the following facts: K.S.A. 40-2,114 which provides freedom to choose clinical social workers and be reimbursed by insurance does not apply to policies delivered outside of the state. However, thru passage of K.S.A. 40-2,103, in 1984, the laws which give freedom to choose all providers, other than clinical social workers, and be reimbursed do apply to policies delivered outside of the state when used by a Kansas resident or employee. The solution is to add clinical social workers to the providers covered by K.S.A. 40-2,103.
2. K.S.A. 40-2,114: The freedom of choice statute for clinical social workers allows the policyholder to "refuse in writing" coverage for clinical social workers. Although we are not seeing use of the "refuse in writing" provision, elimination of this provision would make the statute for clinical social workers consistent with the freedom of choice statute for all other providers, and as a preventative measure would eliminate potential for any future problems.

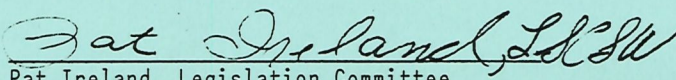
Discussion

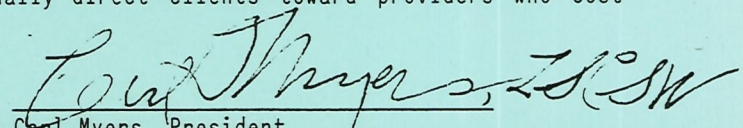
Under the current laws and practice, the insurance of most Kansans already does cover clinical social workers for psychotherapy services. This is because of Kansas statute 40-2,114 for policies delivered within the state, and because even the majority of insurance through out of state employers covers clinical social workers due to the laws of those other states or insurance company practices.

However, in the situations where clinical social workers are not covered by policies held out of state, the insured individual does not have freedom to choose from qualified providers and clinical social workers are deprived of the freedom to fairly compete.

To demonstrate how this is really a free enterprise issue, the following example is provided. Health care providers depend upon insurance just as real estate companies depend upon mortgage loans. If certain banks would not provide mortgage loans to people purchasing homes from Coldwell Banker Realty, that would clearly be seen as an interference with free competition. This is the same situation clinical social workers face with the loopholes in the freedom of choice of provider statutes; people don't want to use providers whom insurance does not cover.

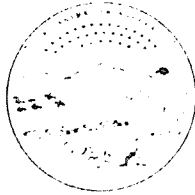
Ironically, clinical social workers generally charge 25% to 50% less than psychologists or psychiatrists. Therefore, the current loopholes actually direct clients toward providers who cost insurance companies more money.

  
Pat Ireland, Legislation Committee  
Kansas Society for Clinical  
Social Workers

  
Carl Myers, President  
Kansas Chapter, National Association  
for Social Workers

SPH/W  
2-6-89  
Attachment 6

STATE OF KANSAS



DEPARTMENT OF HEALTH AND ENVIRONMENT

*Forbes Field*  
Topeka, Kansas 66620-0001  
Phone (913) 296-1500

Mike Hayden, *Governor*

Stanley C. Grant, Ph.D., *Secretary*  
Gary K. Hulett, Ph.D., *Under Secretary*

TESTIMONY PRESENTED TO  
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE  
BY  
THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT  
Senate Bill 103

Passage of S.B. 103 would result in amendments of the Kansas Laws directed at the manufacture and resale of bedding. The KDHE recommends substituting the terminology of "cleaned" and "sanitized" for "sterilized" and "disinfected." Staff of the KDHE considers the requirements of cleaned and sanitized to effectively eliminate any public health hazards associated with the resales of bedding. The KDHE supports passage of Senate Bill 103.

Presented by

Stephen N. Paige  
Director  
Bureau of Food, Drug and Lodging  
February 6, 1989

*SPH/W*  
*2-6-89*  
*Attachment 2*