

Approved 2-21-89
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. ~~pm~~ on February 16, 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 Board of Healing Arts
Senator Gerald Karr, co-sponsor of SB-160
Paul M. Klotz, Executive Director, Association of Community Mental Health Centers of Kansas
Dwight Young, Legislative Chairman, Association of Community Mental Health Centers of Kansas
Harriet Griffith, Wichita, Kansas
Janette Hanzlick, Executive Director, Kansas Psychological Association
John Preble, Chairperson, Behavioral Sciences Regulatory Board
Mary Ann Gable, Executive Secretary, KS Board of Behavioral Sciences
Gigi Felix, Executive Director, Kansas Director, National Association of Social Workers
John Peterson, Kansas Association of Professional Psychologists

Chairman Ehrlich opened the meeting and followed with a request for a committee bill which would establish a council for indigent health care, providing for the powers and duties and functions thereof. This bill came out of the interium study for the homeless and medically indigent.

Senator Walker moved to accept the bill for a committee bill. Senator Kanan seconded the motion and the motion carried.

Richard Gannon, Board of Healing Arts, appeared before the committee to request a committee bill that would create a temporary education license in the state of Kansas, basically, to permit continuing medical education programs. (Attachment 1)

Senator Gerald "Jerry" Karr appeared before the committee in support of SB-160 to suggest a possible change in the Behavioral Science Regulatory Board. The Board is required by law to supervise psychologists, social workers and counselors who are licensed or registered in the state of Kansas. (Attachment 2)

Paul Klotz, Association of Mental Health Centers of Kansas appeared in support of SB-160 stating his organization which represents 30 licensed mental health centers in the state operate with team approach and with a physician having overall ultimate responsibility for clinical decisions. This method has been tested both by time and experience. Senate Bill 160 would allow the state to respond to the growing needs of the mentally ill. (Attachment 3)

Dwight Young, Legislative Chairman of the Association of Community Mental Health Centers of Kansas, appeared before the committee in support of SB-160 stating this bill would allow the registered Masters level psychologists to have a voting voice on the Behavioral Sciences Board rather than the present non-voting subcommittee position. (Attachment 4)

Harriet Griffith appeared in support of SB-160 stating that during the time she served on the Behavioral Sciences Regulatory Board, her

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

room 526, Statehouse, at 10:00 a.m./~~p.m.~~ on February 16, 1989.

experience was that the decisions of the Board tended to be weighted towards those opinions expressed by individuals holding Ph.D. degrees. (Attachment 5)

Janet Hanzlick, Kansas Psychological Association, appeared in opposition to SB-160. Ms. Hanzlick stated the flaw in the proposal for Board composition lies in the differences between a licensed profession, one which is allowed to practice independently in Kansas within a defined scope of practice, and a registered profession, one which must practice under direction and oversight and within certain clearly defined settings. (Attachment 6)

John Preble, Chairperson, Behavioral Sciences Regulatory Board, spoke in opposition to SB-160 stating the board was not aware of any problems in working with either the advisory committees or with the current composition of the board. In consulting with members of the Advisory Committee on Professional Counseling and the chairperson of the RMLP Advisory Committee, all seemed to feel a good working relationship existed with the board and board staff. Concern was expressed with language in SB-160 which would appear to give statutory authority to the advisory committee to perform the duties associated with registration and regulation of masters level psychologists. The board make-up was compared to that of the Board of Healing Arts which is similar in composition. (Attachment 7)

Mary Ann Gabel, in answer to a question from staff concerning the present status of the board in adopting rules and regulations for counseling, replied temporary rules and regulations for counselors were in place. Some changes were made and are now going back through the process with the Advisory Committee on Professional Counselors scheduled to meet February 23 to set a date for the public hearing. The RMLP rules and regulations were filed with the Secretary of State's office.

Gigi Felix, National Association of Social Workers, appeared in opposition to SB-160 stating the membership had concerns as to exactly what problem this legislation was expected to correct. Also questioned was the efficiency, the fiscal impact and the impact this bill would have on the baccalaureate social workers.

John Peterson spoke to the committee stating the opposition of the Kansas Association of Professional Psychologists to SB-160. He stated it was felt that this measure was premature since registration for masters level psychologists and counselors was passed just two years ago and as yet no one has been registered although work has gone forward toward the initial registration and adoption of rules and regulations. He further stated that when legislation was passed, the agreement with proponents of the masters level legislation agreed they would have an advisory committee but would not have representation on the board. Mr. Peterson requested that the committee give the Behavioral Sciences Regulatory Board an opportunity to move forward with its regulations, and should problems develop, then address them. When questioned as to the need to advance the sunset date for the advisory board on counselors addressed in this bill, Mr. Peterson stated he had no objection. (Attachment 8)

Senator Strick questioned whether or not Mr. Peterson felt the bill should be tabled for this year. Mr. Peterson replied he would not want to tell the committee what to do but stated he would have no objections.

Don Strong, American Association of Mental Health Counselors, requested permission to speak in favor of SB-160. Mr. Strong stated he had not received the temporary rules and regulations set forth by the board until late August or September of 1988. He told the committee that a complaint had been registered with the board and he was in the position of defending himself before the Behavioral Sciences Regulatory Board with no representation sitting on that board other than psychologists and social

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10:00 a.m./~~p.m.~~ on February 16, 1989

workers who have fought for years to keep Masters level psychologists off of that board. Therefore, Mr. Strong requested the committee enact SB-160 and the composition of the board be changed to include a registered professional counselor.

The chairman placed SB-97 before the committee and requested their wishes concerning this bill. After requesting the wishes of the committee for the second time with no reply the chairman called for the Subcommittee report on SB-23.

The subcommittee report for SB-23 was presented in the form of an amendment and was handed to each member of the committee. (Attachment 9)

Due to the lack of time the meeting adjourned at 11:01 a.m. and will convene at 10:00 a.m. Monday, February 20, 1989 in room 526-S.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE February 16, 1989

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

KEITH R LANDIS TOPEKA

CHRISTIAN SCIENCE COMMITTEE
ON PUBLICATION FOR KANSAS

John McPherson TOPEKA

Observer

CHARLOTTE MORLEY

KANSAS CHAPTER NASW

HARRIET GRIFFITH

ACMHCK

Pat Johnson

KSBW

Tom Hitchcock Topeka

Bd. of Pharmacy

Dwight Young

ACMHCK

Dwight Young

ACMHCK / TOPEKA

Allen Forkner "

A.R.S.

John Clark

BSRB

Janeen Nanylich

Kansas
Psychological Association

Will W. Shiff

BSRB

Mary Ann Stabel

BSRB

John Peterson

Kansas State Psychological

Tom Roberts

KSNA

By

AN ACT CREATING A TEMPORARY EDUCATION LICENSE AND SUPPLEMENTING THE
KANSAS HEALING ARTS ACT.

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

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

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

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

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

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

*S Pd/w
2-16-89
Attachment 1*

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

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

By

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

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

STATE OF KANSAS

GERALD "JERRY" KARR
SENATOR, SEVENTEENTH DISTRICT
CHASE, LYON, MARION, MORRIS,
OSAGE COUNTIES
R. R. 2, BOX 101
EMPORIA, KANSAS 66801



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
MEMBER: AGRICULTURE
ASSESSMENT AND TAXATION
FINANCIAL INSTITUTIONS AND
INSURANCE
ECONOMIC DEVELOPMENT
EDUCATION
JOINT COMMITTEE ON ADMINISTRATIVE
RULES AND REGULATIONS
LEGISLATIVE EDUCATIONAL PLANNING
COMMITTEE

DATE: February 16, 1989
TESTIMONY: Senate Public Health and Welfare Committee
FROM: Senator Gerald "Jerry" Karr
SUBJECT: SB 160 (An act concerning the Behavioral Science
Regulatory Board)

I appreciate the opportunity to appear before the Public Health and Welfare Committee to suggest a possible change in the Behavioral Science Regulatory Board. This Board is required by law to supervise the psychologists, social workers, and counselors who are licensed or registered in the state of Kansas. What I am suggesting is basically two specific changes.

First, I am recommending that the Board, which now includes seven members, be expanded to nine members. The two additional members who would be added to the Board would be represented by an appointee who would be a registered masters level psychologist; the second appointee would be a registered professional counselor.

I also include in this bill language addressing the Advisory Boards which are now in place for both the masters level psychologist and the professional counselors. As current law indicates on page 2, line 61, the Advisory Board for counselors will sunset on July 1, 1989. I am suggesting that sunset date be extended to 1990. This would provide further transition time for the Counselors Technical Board to prepare and assist the full Board in the early implementation of rules and regulations for registered counselors.

I would also recommend that the Technical Board for masters level psychologists be sunset July 1, 1990. Thus, the two technical boards would be in place for a little over a year, and this would again allow both of the new professions supervised by the Board time to fully make a transition into representation for policy making.

This is a rather simple change, and hopefully this would allow all professions under the Board an opportunity to work in concert with each other to determine long-term policy regarding both licensed and registered personnel supervised by the Behavioral Science Regulatory Board.

If there are any questions, I would be glad to answer them at this point. Thank you Mr. Chairman.

SP4/4W
2-16-89

Attachment 2



Association of Community

Mental Health Centers of Kansas

835 S.W. Topeka Ave., Suite B/Topeka, Kansas 66612/913 234-4773

Paul M. Klotz, Executive Director

Position on:
SENATE BILL 160
February 16, 1989

This Association, representing the thirty (30) licensed mental health centers in the state supports S.B. 160. Mental health centers, as a clear part of their state licensure requirements, operate with a professional team approach with a physician having overall and ultimate responsibility for clinical decisions. Within the team are well defined professionals having their scope of practice defined by both law and rules and regulations. Our methods of treatment and the team approach have been tested by both time and experience in Kansas and across the nation.

We believe that the Behavioral Sciences Regulatory Board, which oversees and credentials many of our professional staff needs to be as representative as possible of the professionals it regulates as well as the lay public. We believe that S.B. 160 allows the B.S.R.B. to broaden its view toward other mental health providers who give excellent quality service to thousands of Kansas citizens outside of solo or other types of private practice. S.B. 160 helps the state to respond to the growing needs of the mentally ill in Kansas without sacrificing the quality we have come to expect in Kansas.

We urge your support of S.B. 160.

Thank you!

Contact: Paul M. Klotz
913-234-4773

SPH/SLW
2-16-89
Attachment 3

Kermit George
President

John Randolph
President Elect

Steve Solomon
Vice President

Dwight Young
Past President

Jim Sunderland
Treasurer

Eunice Ruttinger
Secretary

Pam Bachman
Bd. Memb. at Large



Association of Community

Mental Health Centers of Kansas

835 S.W. Topeka Ave., Suite B/Topeka, Kansas 66612/913 234-4773

Paul M. Klotz, Executive Director

Senate Bill No. 160

Dwight L. Young
Legislative Chairman

February 16, 1989

The Association of Community Mental Health Centers of Kansas (ACMHCK) supports S.B. 160. In creating a position for a Professional Counselor and a Registered Masters Level Psychologist on the Behavioral Sciences Regulatory Board (BSRB), the bill responds to one of the basic tenets of our society, "representative government". When government creates a bureaucracy like the BSRB and gives it the power to create rules and regulations that have major impacts on the lives of so many people, it behooves that government to assure that representation from the effected groups have a voice on the Board. For anyone on the current Board to claim to speak for either Professional Counselors or RMLP's would be a clear conflict of interest. This situation has already produced some very undesirable results for the service delivery system and the people who look to that system for help.

When the bills were introduced to legally recognize the RMLP and the Professional Counselor, it was believed that this representation could be accomplished through subcommittees for each group. The RMLP law even went so far as to say that the BSRB would accept the recommendation of the RMLP committee so long as they were consistent with the law. However, time and again this has proven to be a false hope for the creators of the act. The BSRB has repeatedly rejected unanimous recommendations from the RMLP committee and supported positions put forth by the Licensed Psychologist on the Board. Therefore, it is imperative that everyone regulated by the Board have at least one voice on the Board. It may well be that one vote would not change the outcomes we have protested. It is certain that the Licensed Psychologist with two representatives and the Social Workers with two representatives will have an edge when an issue comes to a vote. However, it is important that there be the opportunity for other views to be presented from the position of a peer instead of the subordinate position delegated to the current subcommittees. It is also important that dissenting opinions or minority reports come out of the proceedings of the BSRB rather than the "one for all and all for one" mentality we tend to see on the BSRB.

*SP/dcc
2-16-89
Attachment 4*

Kermit George
President

John Randolph
President Elect

Steve Solomon
Vice President

Dwight Young
Past President

Jim Sunderland
Treasurer

Eunice Ruttinger
Secretary

Pam Bachman
Bd. Memb. at Large

The BSRB professes to be in business to protect the public, specifically, the consumer of services of the behavioral sciences. This is clearly a major responsibility of the Board, but the Board also has a broader responsibility. The Board must consider the services of the providers it regulates from a systems point of view as well. Initially the regulating body was only for Certified Psychologist in private practice. It was then expanded to include Social Workers in all areas of practice and Social Workers were added to the Board. Now Registered Masters Level Psychologist and Professional Counselors have been added to the regulated groups and they should be added to the Board as well. Further, the representatives from the general public perhaps should include major employers or educators of the regulated groups. All attempts to redirect the BSRB away from the guild orientation that it has demonstrated in the past would be helpful.

In trying to anticipate arguments against this bill, it has been difficult to see why any reasonable person would oppose it. However, one might advocate for the status quo, saying, "Lets give it a chance to work". There is abundant evidence to support that it does not work. The number of times that this committee has been confronted with issues in this area should indicate that it is time to try a different approach. If action is not taken now the situation will just get worse. Last year legislation to correct some of the problems created by the Board was "put on hold" to see if the problems could be corrected through rules and regulation with a promise that they could be addressed this year if necessary. This legislation did not fail because of the lack of votes but because a parliamentary procedure was used to keep it from coming to a vote. The BSRB now cites the failure of the legislature to act as support for their position. It is definitely time for a change.

The only other argument that we can foresee being offered to oppose the bill is increased expense. Our initial response is to ask, "What is too high a cost when we are talking of fairness and justice?" We would, however, like it noted that we have no objections to maintaining a seven member Board if those concerned about the increased cost are willing to save money by replacing one of the two Licensed Psychologist with a Registered Professional Counselor and one of the two Social Worker with a Registered Masters Level Psychologist. After two years of struggle, it is time for a change even if it means additional cost.

We thank you for your time and consideration in this matter and I stand ready for any questions you may have.

PRESENTATION TO
SENATE HEALTH AND WELFARE COMMITTEE
BY
HARRIET GRIFFITH
7633 DUBLIN
WICHITA, KANSAS 67206

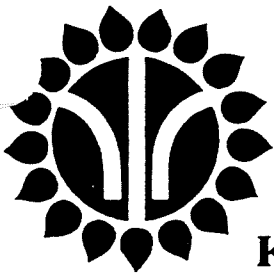
FEBRUARY 16, 1989

This information is presented to the committee in support of S.B. 160. I served on the Behavioral Sciences Regulatory Board from the fall of 1987 through the fall of 1988 as a consumer representative. Based on my experience serving on that Board, it is clear that representation of all regulated groups should be seated on the Board. My participation on the Board was during the time that rules and regulations were being developed for both the professional counselors and the Registered Masters Level Psychologists. I do not consider it in the interest of the public or in the interest of the health delivery system for such laws to be implemented and rules and regulations to be developed without the representation of the affected groups.

It is my experience that decisions on the Board tend to be weighted towards those opinions expressed by individuals holding Ph.D. degrees. During my tenure this included two Licensed Psychologists and a Ph.D. representing Social Workers. As a result of this inordinate influence, I believe that rules and regulations were promulgated that were, in my opinion, not in the best interest of the Kansas consumer. Therefore, I strongly urge you to support S.B. 160 which is a step in the right direction in addressing this problem.

Thank you.

S.P.H.W.
2-16-89
Attachment 5



KANSAS PSYCHOLOGICAL ASSOCIATION

TESTIMONY ON SB 160
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
February 16, 1989

Chairman Ehrlich, members of the Committee, I am Janette Hanzlick, Executive Director of the Kansas Psychological Association. I am here today representing that association, its President and its Board of Governors.

Our organization strongly opposes the changes proposed in SB 160, both in the composition of the Behavioral Sciences Regulatory Board and as the bill relates to the Advisory Committees.

The B.S.R.B. was originally developed to regulate two licensed mental health practitioners; the PhD licensed psychologist and the licensed social worker. In the past few years counselors and master level psychologists have received registration status and are registered with the B.S.R.B. In the case of the RMLP, they are supervised and directed by a licensed psychologist.

The flaw in this proposal for Board composition lies in the differences between a licensed profession; one which is allowed to practice independently in Kansas within a defined scope of practice, and a registered profession; one which must practice under direction and oversight and within certain clearly defined settings. If SB 160 is approved it would mean that a registered professional; one who must practice under the direction of a licensed psychologist, would be passing judgement on whether a psychologist is licensable. It does not make sense that someone who this state does not recognize as an independent provider should make decisions relevant to licensure of independent providers.

Parallels in the makeup of the B.S.R.B. can be drawn from the Board of Healing Arts. Although the Board of Healing Arts is responsible for registration of numerous professions, only independent providers such as MD's, DO's, DC's and Dp's sit on that Board. Public members are the only non-licensed Board members. Their Board ratio is 80% licensed practitioner representation and 20% public representation. We feel this is solid logic and should also apply with the Behavioral Sciences Board. Currently, the B.S.R.B. is 57% licensed professional representation and 43% public representation. By adding two more non-licensed representatives, it would skew that ratio even further and mean that non-licensed persons would hold the majority, and thus be making licensing and practice decisions for the professional minority. We see many problems in allowing such a situation to happen.

Central Office / 400 SW Croix / Topeka, Kansas 66611 / (913) 267-7435
Official Affiliate of the American Psychological Association

S.P.H./460
2-16-89
Attachment 6

The current arrangement of advisory committees for the registered professions has been, I believe, quite helpful to the B.S.R.B. These groups have direct and recognized input to the Board and assist by providing information to help the Board members make decisions. I believe they also help accomplish much of the technical work concerning registration of those professions.

In closing, I urge you to support the present composition of the Behavioral Sciences Board; that being four licensed professionals and three public members, and continue the advisory committee structure for those registered professions of the Board. I ask that you do not pass SB 160.

Thank you. I will be glad to respond to any questions.

JOHN PREBLE, B.S., *Chairperson*
MARY ANN GABEL, B.B.A., *Executive Director*



Landon State Office Building
900 S.W. Jackson, Room 855-S
Topeka, Kansas 66612-1220
913/296-3240 KANS-A-N 561-3240

BOARD MEMBERS:
Public Members
BETTIE E. DUNCAN
DELBERT L. POTTER
JOHN PREBLE, B.S.

Psychology
WILLIAM L. ALBOTT, Ph.D.
C. ROBERT BORRESEN, Ph.D.

Social Work
CLARICE HARRIS, MSW
MARVIN A. KAISER, Ph.D.

BEHAVIORAL SCIENCES REGULATORY BOARD

LICENSED PROFESSIONALS:
Psychologists
Social Workers

REGISTERED PROFESSIONALS:
Master Level Psychologists
Professional Counselors

TESTIMONY BEFORE THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

S.B. 160

THURSDAY, FEBRUARY 16, 1989

SENATOR EHRLICH, SENATOR LANGWORTHY AND COMMITTEE MEMBERS:

I am John Preble, Chairperson of the Behavioral Sciences Regulatory Board and a public member representative, appearing before you today to raise concerns on S.B. 160.

The board is quite surprised to see the introduction of this bill inasmuch as it is not aware of any problems in working with either of the advisory committees or with the current composition of the board. In fact, when Ms. Gabel spoke with Dr. Fred Bradley of Kansas State University and Dr. Dorothy Knoll of Fort Hays State University, members of the Advisory Committee on Professional Counseling; and with Dr. Leo Herrman, Chairperson of the RMLP Advisory Committee; they indicated that the advisory committees had enjoyed a good working relationship with both the board and the board staff. Dr. Bradley and Dr. Knoll went on to say that whenever a concern from their professional community was raised, the concern was presented to and discussed with staff or

S. Preble
2-16-89
Attachment 7

the board and the matter was resolved. Dr. Bradley had hoped to appear before you today to offer the committee's assessment of its working relationship with the board; however, he was unable to rearrange his schedule to do so. If asked, he would be more than willing to send a letter to the committee to provide this information. Dr. Herrman is planning to be in attendance today should the committee have any questions regarding the RMLP Advisory Committee.

The board's concerns related to this legislation are indicated as follows.

- 1) The current statute regarding the RMLP Advisory Committee [K.S.A. 1988 Supp. 74-5368 (e)] states, "The committee shall receive all applications for registration as a registered masters level psychologist; review the applications for compliance with this act; and make their recommendations for acceptance, rejection or other actions to be taken by the board. The board shall (emphasis added) accept and act on the committee's recommendations so long as the recommendations are in compliance with this act."

Given this statutory language, it appears that the advisory committee has the statutory authority to perform the duties associated with registration and regulation of the master level psychologists.

- 2) "Licensure" by statutory definition [K.S.A. 1988 Supp. 65-5002 (d)] significantly differs from "registration" [K.S.A. 1988 Supp. 65-5002 (c)] in that licensure permits qualified persons to "engage in an occupation or profession," and registration permits "qualified persons to use a designated title."

The current composition of the board is 57% licensed practitioners and 43% public representatives. The distribution of nonlicensed representatives to licensed representatives is already disproportionate to other boards in its current form. Adding two more nonlicensed practitioners will make the distribution even more disproportionate -- nonlicensed representatives (56%) and licensed practitioners (44%). Therefore, nonlicensed individuals could be making decisions regarding professional practice standards and licensure issues.

- 3) The Board of Healing Arts has 15 members, 12 of whom (80%) represent licensed practitioners and three of whom (20%) represent the general public. None of the registered practitioners (physical therapists, occupational therapists, and respiratory therapists) are represented on the board, but rather are represented through advisory committees/commissions. [K.S.A. 1988 Supp. 65-2905, 65-5404, and 65-5504.] Why should the composition of the Behavioral Sciences Regulatory Board be any different?

- 4) RMLP's may practice only in statutorily specified settings and only under the direction of either a licensed psychologist or a licensed physician. Is it appropriate to place a non-independent registered practitioner and a registered practitioner on the board to make policy decisions on professional practice standards regarding independent licensed practitioners?

The board believes this legislation to be unnecessary inasmuch as there has been no demonstrated problem that requires a solution of this nature; therefore, the board respectfully requests that this bill not be passed.

Thank you for providing me an opportunity to appear before you today to express the board's concerns. Dr. Albott, Ms. Gabel or I will be happy to answer any questions you may have regarding the board's functioning or its policies and procedures.

BEFORE THE SENATE COMMITTEE ON
PUBLIC HEALTH AND WELFARE

Senate Bill 160

John Peterson
Kansas Association of Professional Psychologists
February 16, 1989

Mr. Chairman, members of the Committee. My name is John Peterson and I am appearing today on behalf of the Kansas Association of Professional Psychologists, a professional association of licensed psychologists who are in private practice.

We regret that we must appear in opposition to Senate Bill 160. We oppose this bill for two primary reasons.

First, consideration of this measure is premature. Only two years ago legislation was passed registering masters level psychologists and counselors. No individuals have yet been registered in either of those classifications. The advisory committees are working hard to assist in this initial registration and in the adoption of rules and regulations. It would be premature to begin to make precipitous changes to the composition of the Board until they have had an opportunity to

operate under the system that was envisioned by the passage of legislation two years ago.

Secondly, when that legislation passed for masters level psychologists the organization that I represent reached an agreement with the proponents of the masters level legislation under which they would have an advisory committee but they would not have representation on the Board. The function and role of the advisory committee was set forth in statute and was part and parcel of that agreement. It was an agreement and it is one that has worked well. Regardless of my personal views on this advisory committee and its role and functions, I am here today to stand behind that agreement and to urge you not to change the composition of the Board nor to abolish the advisory committees.

I would hope that this Committee, both with this bill and with other legislation that you have already heard dealing with masters level psychologists, would declare a one- or two-year moratorium on such legislation and would give these laws an opportunity to work, would give the Behavioral Sciences Board an opportunity to move forward with its regulations, and if problems develop not based upon what a few individuals think is going to happen but if actual problems develop then the legislature can address them next year or the year after. But we are never going

to accomplish anything if following a legislative enactment we revisit immediately again and again the same issues prior to giving the legislation and the agency an opportunity to work. I would therefore urge that this bill and the legislation you heard last week be tabled until next year so that an opportunity will exist for working through any potential problems.

Thank you for your consideration of these matters.

HHP021490K19/20

Recommends that Senate Bill No. 23

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

Be amended:

On page 2, in line 72, by striking all after the period; by striking all of lines 73 to 75, inclusive; following line 75, by inserting the following:

"(d) An advanced registered nurse practitioner may not prescribe drugs but may transmit prescription orders pursuant to a written protocol as authorized by a responsible physician. Each written protocol shall contain a precise and detailed medical plan of care which specifies all drugs which may be transmitted by the advanced registered nurse practitioner. In no case shall the scope of authority of the advanced registered nurse practitioner exceed the normal and customary practice of the responsible physician. For the purposes of this subsection, "responsible physician" means a person licensed to practice medicine and surgery who has accepted responsibility for the protocol and the actions of the advanced registered nurse practitioner involving the transmitting of prescription orders.";

On page 7, following line 245, by inserting the following:

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

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

S.P.H.W.
2-16-89
Attachment 9

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

(c) "Board" means the state board of pharmacy.

(d) "Bureau" means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency.

(e) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments to these sections.

(f) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization bears the trademark, trade name or other identifying mark, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

(g) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(h) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling or compounding necessary to prepare the substance for that delivery.

(i) "Dispenser" means a practitioner or pharmacist who dispenses.

(j) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(k) "Distributor" means a person who distributes.

(l) "Drug" means: (1) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of

disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2) or (3) of this subsection. It does not include devices or their components, parts or accessories.

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

(n) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use or the preparation, compounding, packaging or labeling of a controlled substance: (1) By a practitioner or the practitioner's agent pursuant to a lawful order of a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

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

(o) "Marihuana" means all parts of all varieties of the plant Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound,

manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

(p) "Narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis: (1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1) but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(q) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under K.S.A. 65-4102 and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(r) "Opium poppy" means the plant of the species Papaver somniferum l., except its seeds.

(s) "Person" means individual, corporation, government, or governmental subdivision or agency, business trust, estate,

trust, partnership or association or any other legal entity.

(t) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(u) "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.

(v) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, scientific investigator or optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee or other person licensed, ~~registered or~~ otherwise authorized by law to ~~administer and prescribe,~~ use a controlled substance in teaching or chemical analysis or to conduct research with respect to a controlled substance ~~in the course of professional practice and research.~~

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

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

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

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

Also on page 7, in line 246, by striking "3" and inserting in lieu thereof "4"; also in line 246, preceding "and" by inserting the following: "and 65-4101"; in line 248, by striking "4" and inserting in lieu thereof "5";

On page 1, in the title, line 19, following "65-1130" by inserting the following: "and 65-4101";