

Approved 2-28-89
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 23, 1989 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Tom C. Hitchcock, Executive Secretary, Kansas State Board of Pharmacy
Bob Williams, Executive Director, Kansas State Pharmacy Association
Richard Gannon, Executive Secretary, Kansas Board of Healing Arts
Written testimony, Lois Scibetta, Executive Administrator, Kansas State
Nurses Association
Written testimony by James P., Schwartz, Jr., Consulting Director, Kansas
Employer Coalition on Health, Inc. SB-98

The chairman called the meeting to order and welcomed the nurses who were visiting today.

Tom Hitchcock, Board of Pharmacy, appeared and presented written testimony in support of SB-189. Mr. Hitchcock told the committee that this bill proposed a change of the Pharmacy Act which includes definitions used in the Act or blatantly not meeting requirements of the pharmacy practice and relating to a pharmacist that has become incapable to practice pharmacy due to impairment. Other changes would be under the definition of "unprofessional conduct." These changes are detailed in Attachment 1.

Norman Furse told the committee some technical changes were necessary due to the fact that in error, information picked up from the computer, (an amended section and not the most recent one) technical changes needed to be made.

Bob Williams, Kansas Pharmacists Association, appeared in support of SB-189. Mr. Williams stated that, in light of the changing society as well as changes in the pharmacy profession, the Pharmacy Act is in need of updating. (Attachment 2)

The chairman asked Senator Walker to introduce his pages, Christy Hermann and Stephanie Sears from Garnett, Kansas. Senator Walker also introduced his wife to the committee.

Senator Salisbury, chairman of the subcommittee on SB-23 called the attention of the committee to a report (Attachment 9, February 16, 1989) which sets forth information concerning an amendment to SB-23. The major change addressed is in subsection (d) and deals with the manner in which a nurse practitioner may transmit drugs pursuant to a written protocol as authorized by a responsible physician. Page 5 of the attachment also defines "Practitioner".

Richard Gannon, Board of Healing Arts, presented testimony and a balloon to SB-23 stating that said balloon would expand the bill to establish what could be considered a new policy regarding the regulation and definition of the services performed by ARNPs. (Attachment 3)

Senator Salisbury stated that the subcommittee did not recommend the balloon bill since the focus of the subcommittee had been on the prescriptive powers of the ARNPs.

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 23, 1989

The chairman told Secretary Gannon that staff informed him that the proposed amendments did not belong with SB-23 and would be worked when SB-183 was considered by the full committee.

Senator Salisbury moved adoption of the subcommittee report. Senator Walker seconded the motion and the motion carried.

Senator Strick made the motion to pass SB-23 favorable as amended. Senator Langworthy seconded the motion and the motion carried.

Written testimony concerning SB-23 from Dr. Lois R. Scibetta, Executive Administrator, Kansas State Board of Nursing, was handed to committee members. Dr. Scibetta stated the Advanced Registered Nurse Practitioner Committee of the Board met and reviewed the balloon offered by KSNA and KMS. The Committee was requested to reject the balloon presented by the Board of Healing Arts and suggested Mr. Gannon's balloon was not germane to the "prescriptive powers" issue. (Attachment 4)

Written testimony concerning SB-98 from James P. Schwartz, Jr., Consulting Director of the Kansas Employer Coalition on Health, Inc., was presented to committee members. Concern was expressed about government intervention mandating a particular benefit. (Attachment 5)

The meeting adjourned at 10:45 a.m. and will convene at 10:00 a.m. Friday, February 24, 1989 in room 526-S.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE February 23, 1989

(PLEASE PRINT)
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SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE February 23, 1989

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SENATE BILL 189

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

10 A.M. - February 23, 1989

Mr. Chairman, members of the Committee, I am Tom Hitchcock, Executive Secretary for the Kansas State Board of Pharmacy. I appear before you today on behalf of the Board to speak in support of Senate Bill 189.

This bill is a proposed change of the Pharmacy Act, K.S.A. 65-1626 and 65-1627. In K.S.A. 65-1626, which includes definitions used in the Act, the changes begin on Page 5, Line 173 with the addition of the terminology "professional incompetency." The definition includes three specifics which the Board currently feel are necessary to continue to protect the health and welfare of the public. The sections (aa)(1) and (aa)(2) (Line 174 and 179) relate to a pharmacist purposely or blatantly not meeting the requirements of the pharmacy practice, i.e. not labeling, counseling, checking finished prescriptions for errors. Section (aa)(3) (Line 180) relates to a pharmacist that has become incapable to practice pharmacy due to impairment, Alzheimer's disease, or similar affliction.

On Page 6 under the definition of "unprofessional conduct," the Board proposes the addition of five specifics as definitions. Number 6 (Line 203) dealing with maintaining confidentiality; number 7 (Line 204) to deceive or defraud as with false information; number 8 (Line 205) false statements about a drug; number 9 (line 207) dealing with misconduct or sexual abuse; and number 10 (Line 209) performing examinations or tests.

In K.S.A. 65-1627 the only change the Board is proposing from existing statute is on Line 221 with the addition of three words, "or professional incompetency." The remainder of the changes are due to computer foul-up. This may be explained by Norman Furse.

The Board respectfully requests the passage of Senate Bill 189.

Thank you.

SPH/WCW
2-23-89
Attachment 1

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

(y) "Prescription order" means: (1) An order to be filled by a pharmacist for prescription medication issued and signed by a practitioner in the authorized course of professional practice; or (2) an order transmitted to a pharmacist through word of mouth, note, telephone or other means of communication directed by such practitioner.

(z) "Probation" means the practice or operation under a temporary license, registration or permit or a conditional license, registration or permit of a business or profession for which a license, registration or permit is granted by the board under the provisions of the pharmacy act of the state of Kansas requiring certain actions to be accomplished or certain actions not to occur before a regular license, registration or permit is issued.

(aa) "Retail dealer" means a person selling at retail nonprescription drugs which are pre-packaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a drug the label of which is required to bear substantially the statement "Caution: Federal law prohibits dispensing without prescription"; or (3) a drug intended for human use by hypodermic injection.

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

(cc) "Unprofessional conduct" means:

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

History: L. 1953, ch. 290, § 3; L. 1975, ch. 319, § 2; L. 1977, ch. 217, § 1; L. 1978, ch. 242, § 1; L. 1978, ch. 243, § 1; L. 1979, ch. 193, § 1; L. 1982, ch. 182, § 138; L. 1986, ch. 235, § 1; L. 1986, ch. 231, § 9; L. 1986,

ch. 236, § 1; L. 1987, ch. 235, § 5; L. 1987, ch. 236, § 1; L. 1988, ch. 297, § 2; July 1.

Attorney General's Opinions:

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

Kansas retailers' sales tax: exempt sales; non-prescription drugs. 88-76.

65-1627. Grounds for revocation, suspension, placement in probationary status or denial of registration or permit for pharmacist, retail dealer, pharmacy or manufacturer or distributor; hearing procedure. (a) The board may revoke, suspend, place in a probationary status or deny a renewal of any license of any pharmacist upon a finding that:

(1) The license was obtained by fraudulent means;

(2) the licensee has been convicted of felony and the board determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;

(3) the licensee is found by the board to be guilty of unprofessional conduct;

(4) the licensee is addicted to the liquor or drug habit to such a degree as to render the licensee unfit to practice the profession of pharmacy;

(5) the licensee has violated a provision of the federal or state food, drug and cosmetic act or the uniform controlled substances act of the state of Kansas;

(6) the licensee is found by the board to have filled a prescription not in strict accordance with the directions of the practitioner;

(7) the licensee is found to be mentally or physically incapacitated to such a degree as to render the licensee unfit to practice the profession of pharmacy;

(8) the licensee has violated any of the provisions of the pharmacy act of the state of Kansas or any rule and regulation adopted by the board pursuant to the provisions of such pharmacy act;

(9) the licensee has failed to comply with the requirements of the board relating to the continuing education of pharmacists;

(10) the licensee as a pharmacist in charge or consultant pharmacist under the provisions of subsection (c) or (d) of K.S.A. 65-1648 and amendments thereto has failed to comply with the requirements of subsection (c) or (d) of K.S.A. 65-1648 and amendments thereto; or

(11) the registrant has knowingly submitted

a misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement.

(b) The board may suspend, revoke, place in a probationary status or deny a renewal of any retail dealer's permit issued by the board when information in possession of the board discloses that such operations for which the permit was issued are not being conducted according to law or the rules and regulations of the board.

(c) The board may revoke, suspend, place in a probationary status or deny a renewal of the registration of a pharmacy upon a finding that: (1) Such pharmacy has been operated in such manner that violations of the provisions of the pharmacy act of the state of Kansas or of the rules and regulations of the board have occurred in connection therewith; (2) the owner or any pharmacist employed at such pharmacy is convicted, subsequent to such owner's acquisition of or such employee's employment at such pharmacy, of a violation of the pharmacy act or uniform controlled substances act of the state of Kansas, or the federal or state food, drug and cosmetic act; or (3) the owner or any pharmacist employed by such pharmacy has fraudulently claimed money for pharmaceutical services.

(d) A registration to manufacture or to distribute at wholesale a drug or a registration for the place of business where any such operation is conducted may be suspended, revoked, placed in a probationary status or the renewal of such registration may be denied by the board upon a finding that the registrant or the registrant's agent: (1) Has materially falsified any application filed pursuant to or required by the pharmacy act of the state of Kansas; (2) has been convicted of a felony under any federal or state law relating to the manufacture or distribution of drugs; (3) has had any federal registration for the manufacture or distribution of drugs suspended or revoked; (4) has refused to permit the board or its duly authorized agents to inspect the registrant's establishment in accordance with the provisions of K.S.A. 65-1629 and amendments thereto; or (5) has failed to keep, or has failed to file with the board or has falsified records required to be kept or filed by the provisions of the pharmacy act of the state of Kansas or by the board's rules and regulations.

(e) All proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure

act and the act for judicial review and civil enforcement of agency actions.

History: L. 1953, ch. 290, § 13; L. 1965, ch. 369, § 5; L. 1972, ch. 231, § 5; L. 1975, ch. 319, § 3; L. 1982, ch. 262, § 1; L. 1984, ch. 313, § 106; L. 1986, ch. 235, § 2; L. 1986, ch. 231, § 10; L. 1986, ch. 234, § 3; July 1.

Revisor's Note:

This section was amended by L. 1988, ch. 356, § 195, effective July 1, 1989.

Attorney General's Opinions:

Examination and registration of pharmacists; rules and regulations; patient profile records. 86-64.

65-1627a. Same; jurisdiction of board; petition, who may file; stipulation, order based thereon. The board shall have jurisdiction of the proceedings to revoke, suspend, place in a probationary status or deny a renewal of any license, registration or permit issued by the board under the provision of the pharmacy act of the state of Kansas. The petition for the revocation, suspension, placing in a probationary status or denial of a renewal of a license, registration or permit may be filed: (a) By the attorney general in all cases; (b) by the district or county attorney of the county in which the licensee, or permit holder resides or in which a place of business or place of professional practice of such person is located; or (c) by a regularly employed attorney of the board. The petition shall be filed in the office of the executive secretary of the board.

The board and the person holding the license permit or registration may enter into a stipulation which shall be binding upon the board and such person entering into the stipulation, and the board may enter its enforcement order based upon such stipulation without the necessity of filing any formal charges or holding hearings in the proceedings.

History: L. 1975, ch. 319, § 4; L. 1986, ch. 231, § 11; June 1.

65-1627b. Same; direction by board to file petition or to prosecute. (a) The board may direct the attorney general, the district or county attorney or its regularly employed attorney to file such petition against the licensee, registrant or permit holder upon its own motion, or it may give such direction upon the sworn statement of some person who resides in the county in which a place of business or place of professional practice of such person is located.

(b) The attorney general shall comply with such directions of the board and prosecute the



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EXECUTIVE DIRECTOR

TESTIMONY

SENATE BILL 189

Senate Committee on Public Health and Welfare

Mr. Chairman, Committee Members, thank you for this opportunity to address the committee concerning SB 189. I am Bob Williams, the Executive Director of the Kansas Pharmacists Association.

After careful examination of the current Pharmacy Practice Act, in light of a changing society as well as changes within the pharmacy profession, it became apparent that the Pharmacy Practice Act needed updating. We support the Kansas Board of Pharmacy's recommended changes as outlined in SB 189.

We encourage the committee to support SB 189. Thank you.

S.P.W.
2-23-89
Attachment 2

State of Kansas

Office of

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Board of Healing Arts

TO: Senate Committee on Public Health & Welfare
FROM: Richard G. Gannon, Executive Director
DATE: February 23, 1989
RE: TESTIMONY ON SENATE BILL NO. 23

Thank you, Mr. Chairman and members of the Committee, for again allowing me the opportunity to appear before you. I promise this will be the last appearance before you this week.

The roots of SB 23 go back to 1986 and are similar to what led to the introduction of SB 183 relating to physicians' assistants on which you took testimony yesterday. In Opinion No. 86-125 issued August 27, 1986, the Attorney General stated that PAs could issue prescription orders under the direction and supervision of a physician but that ARNPs could not issue prescription orders since they had not been granted authority to do so. The 1987 Legislature quickly acted upon the Attorney General's Opinion to restrict the PAs ability to prescribe drugs by amending K.S.A. 65-2896e. This statute states that PAs may not prescribe drugs but may transmit prescription orders pursuant to a written protocol. SB 23 was obviously introduced having as its sole purpose to provide ARNPs the ability to transmit prescription orders. However, the State Board of Healing Arts feels there are additional issues that should be considered by the legislature which relate to the overall practice of ARNPs. Therefore, the Board is proposing a balloon to SB 23 which would expand this bill to more than just granting ARNPs the right to transmit prescription orders. The proposed amendment which I believe has been provided to each of you does establish what could be considered a new policy regarding the regulation and definition of the services performed by ARNPs. This proposed amendment is not intended by the Board to doom SB 23 or to unnecessarily complicate the bill. Rather, it is intended to bring before the legislature the entire scope and authority of ARNPs.

I confess that I do not have a great deal of knowledge about the practice of ARNPs in the State of Kansas since the State Board of Healing Arts does not regulate this profession. I might note at

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SPN/W
2-23-89
Attachment 3

this point that in 8 states ARNPs are regulated by both the Board of Nursing and the Board that regulates medical doctors. (Nurse Practitioner - Jan. 1989, p.27) On the other hand, I have listened to previous testimony and read various articles regarding the practice of ARNPs and it seems that they do, to a large extent, practice much the same as physicians' assistants. Yet, ARNPs perform their functions largely without any statutory parameters and with fairly ambiguous rules and regulations.

Yesterday I provided each of you with copies of the statutes and rules and regulations pertaining to PAs. The PA statutes specifically require that each physician assistant have a responsible physician. The Board has spent extensive time in developing rules and regulations which, among other things, define what is considered adequate supervision and direction of the PA by the physician. Even in light of the extensive statutes and rules and regulations for PAs, I appeared before you yesterday and explained the problems and concerns that still exist.

Perhaps the best way to explain the difference in the philosophy between physicians' assistants and ARNPs is to quote from the Executive Director of the Kansas State Nursing Association as follows:

"While the physician maintains continuous and ultimate responsibility for the actions of the PA under his or her supervision, the ARNP, by Nursing Board regulation, is directly accountable and responsible to the consumer."
(See attached)

Again, while SB 23 originally was introduced to provide only prescriptive powers for ARNPs, I feel that the legislature should at least look at the proposed balloon offered by the State Board of Healing Arts as a means to more specifically define the role of the ARNP in the delivery of health care in the State of Kansas. Of note is the fact that ARNPs serve a "interdependent" role in the delivery of health care. Clearly, the legislature in enacting the various statutes pertaining to PAs has expressed its intent that those providers serve a "dependent" role which is subject to the guidance and supervision of a responsible physician. ARNPs are not required by statute or rule and regulation to have a responsible physician at the present time. Therefore, as is the case of the physician assistant I described yesterday, there is at least one case of an ARNP owning and running a medical clinic and, in essence, hiring a physician to provide oversight. Similarly, my recollection of the testimony on SB 23 is that there are ARNPs who have established clinics for the delivery of health care but the statutes are silent on any requirements regarding responsible physicians.

Testimony RE: SB 23
February 23, 1989
Page 3

As to the balloon proposed by the Board, paragraph (E) would enable ARNPs to transmit prescription orders pursuant to a written protocol much the same as a PA may do so under existing statutes and rules and regulations.

The proposed subsection (d) of the balloon would enable the ARNP to perform only those medical acts not authorized under the Nurse Practice Act to the extent and in the manner authorized by a responsible physician. I must say quite candidly that should the legislature accept the language proposed in the balloon, it would be in the intent of the Board of Healing Arts to adopt rules and regulations which would deal with what could be properly delegated by licensees of the Board of Healing Arts to an ARNP. I would anticipate that these rules and regulations would require a protocol not only for what drugs could be prescribed but also what tasks could be performed by the ARNP both in the presence of and in the absence of the ARNPs' responsible physician.

Both the State Board of Healing Arts and myself as its Executive Director are vitally concerned that all citizens of the State of Kansas have access to quality medical care. It is certainly not our intent by the language of this proposed balloon to restrict the practice of ARNPs in rural or other underserved areas. However, the Board's position is quite clear that individuals who engage in the practice of medicine and surgery who are not licensed to do so should be under the supervision and direction of a physician so licensed.

I hope I have not worn out my welcome before this committee this week and again express my appreciation to the committee for the time you have extended to me to express the Board's positions on a variety of issues. If I can provide any further assistance or answer any questions, I will be happy to do so.

RGG:LTB:sl

Attachments


 Terri Roberts J.D., I
 Executive Director

February 17, 1989

THERE WILL BE NO LEGISLATIVE UPDATE FRIDAY, FEBRUARY 24TH!!!

In This Issue: S.B. 23 Subcommittee has received new language request from the Board of Healing Arts.
 H.B. 2279 Governors Nursing Scholarship Bill will have hearing before the Appropriations Committee on Wednesday, February 22 at 1:30 p.m. In Room 526-S. Analysis of bill on pages 3-6.

S.B. 23 An act concerning prescription orders for medication; relating to persons authorized to issue prescription orders was introduced in the Senate and referred to the Senate Public Health and Welfare Committee has not been reported out of subcommittee chaired by Senator Alicia Salisbury (R-Topeka), Audrey Langworth (R-Priarke Village), and Doug Walker (D-Osawatomie). The subcommittee report is scheduled to be heard next Thursday, February 23, in the Senate Public Health and Welfare Committee.

Richard Ganon, Executive Administrator of the Kansas Board of Healing Arts has submitted some language changes to amend section K.S.A. 65-1130 to the subcommittee, however, they will not be considering them in their recommendations. Mr. Ganon may ask the full committee to consider these amendments. KSNA objections have been voiced as follows:

There are several issues with the language proposed by the BOHA. These were discussed with Mr. Ganon of the BOHA and KSNA staff in preparing a letter to explain our concerns regarding the first sentence of new section (d).

1: The first is that new section (d) redefines the practice of ARNP's by limiting their practice only to the extent and in the manner authorized by a responsible physician.

In the first sentence, the intent of this bill was to clarify the authority of ARNP's to issue prescription orders.

This new amendment proposed by the BOHA in the first sentence with one sweeping statement redefines the practice of ARNP's through a responsible physician. This is a major policy change. It is not one that this committee heard any testimony on during hearings. Such a change certainly deserves an opportunity to explore all the policy ramifications and a full hearing by this legislature.

Advanced Registered Nurse Practitioners (ARNP), K.S.A. 65-1130

An advanced registered nurse practitioner (hereinafter ARNP) is licensed under separate statutory authority from that applicable to registered or practical nurses. (K.S.A. 65-1130; K.S.A. 65-1115; AND K.S.A. 65-1116.) An ARNP must complete specified post-basic training in education and nursing in order to qualify for ARNP status. K.S.A. 65-1131. The Board of Nursing has adopted a regulation which defines and limits the role of the ARNP; which categorized specialties of the ARNP is recognized by the nursing profession pursuant to K.S.A. 65-1130(c)(1); and which lists the various functions of the ARNP, as nurse clinician and nurse practitioner. Those functions include:

- (a) Basic nursing functions;
- (b) Evaluation of both physical and psychological health status by examination, patient history, etc;
- (c) Assessment of findings;
- (d) Planning, implementing an evaluation of care;
- (e) Consultation
- (f) Management of the medical plan of care proposed for the client based on protocol guidelines adopted jointly by the ARNP and the attending physician;
- (g) Initiation of records and tapes;
- (h) Development of individualized teaching plans;
- (i) Counseling about health and illness;
- (j) Recognition, development and implementation of professional and community educational programs;

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- (k) Periodic and joint evaluation of services rendered;
- (l) A joint review and revision of the adopted protocols and guidelines when the ARNP is involved in the medical plan or care. (K.A.R. 60-11-104)

While the physician maintain continuous and ultimate responsibility for the actions of the PA under his or her supervision, the ARNP, by Nursing Board regulation, is directly accountable and responsible to the consumer. (K.A.R. 68-11-101(a)(2)). This regulation does not serve to absolve the physician; nor is it determinative in the civil courts of whether or not the nurse practitioner is civilly liable for injury to or extended discretionary control over and responsibility to the persons under his or her care.

(c) that 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 as herein defined. 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.

(4) For the purposes of this section, "responsible physician" means a person licensed to practice medicine and surgery who has accepted responsibility for a protocol and the actions of the advanced registered nurse practitioner involving the transmitting of prescription orders.

SH 23

2

LANGUAGE RECOMMENDED BY THE KANSAS BOARD OF HEALING ARTS

43 (2) Establish education, training and qualifications necessary for
44 certification for each category of advanced registered nurse practi-
45 tioner established by the board at a level adequate to assure the
46 competent performance by advanced registered nurse practitioners
47 of functions and procedures which advanced registered nurse practi-
48 tioners are authorized to perform.
49
50 (3) Define the expanded role of advanced registered nurse practi-
51 tioners and establish limitations and restrictions on such expanded
52 role. The board shall adopt a definition of expanded role under this
53 subsection (3) which is consistent with the education, training and
54 qualifications required to obtain a certificate of qualification as an
55 advanced registered nurse practitioner, which protects the public
56 from persons performing functions and procedures at advanced reg-
57 istered nurse practitioners for which they lack adequate education,
58 training and qualifications and which authorizes advanced registered
59 nurse practitioners to perform acts generally recognized by the
60 profession of nursing as capable of being performed, in a manner
61 consistent with the public health and safety, by persons with post-
62 basic education in nursing. In defining such expanded role the board
63 shall consider: (A) The training and education required for a certi-
64 ficate of qualification as an advanced registered nurse practitioner;
65 (B) the type of nursing practice and preparation in specialized prac-
66 titioner skills involved in each category of advanced registered nurse
67 practitioner established by the board; (C) the scope of practice of
68 nursing specialties and limitations therein prescribed by national
69 organizations which certify nursing specialties; and (D) acts recog-
70 nized by the nursing profession as appropriate to be performed by
71 persons with postbasic education and training in nursing. Advanced-
72 registered nurse practitioners may not prescribe drugs but
73 may transmit prescription orders in accordance with the pharmacy
74 act of the state of Kansas.

(E) that 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 as herein defined. 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.

(d) An advanced registered nurse practitioner may perform delegated medical acts not otherwise authorized by K.S.A. 65-1111 and amendments thereto only to the extent and in the manner authorized by a responsible physician. Authorization by a physician means a person licensed to practice medicine and surgery who, in accordance with rules and regulations adopted by the state board of healing arts, has accepted responsibility for the actions of the advanced registered nurse practitioner when such actions constitute delegated medical acts. Nothing herein shall be construed to require the immediate or physical presence of a responsible physician whenever an advanced registered nurse practitioner performs acts authorized by a responsible physician.

Sec. 2. K.S.A. 1985 Supp. 65-1626 is hereby amended to read as follows: 65-1626. For the purpose of this act:
(a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject.

S.B. 184, a Bill to regulate Nursing Pools, (Temporary Nursing Agencies) by establishing registration standards and setting rates/limits on fees charged to adult care homes. This bill would essentially set rates and establish registration standards for temporary nursing agencies and be known as "The Nursing Pool Quality Assurance Act". Kansas Health Care Association, (for-profit nursing homes) has asked to introduce this bill through Senate PH&W. The bill has been scheduled for hearing on Tuesday, February 28th at 10:00 a.m. Individuals interested in testifying in opposition to this Bill should contact Senator Roy Ehrlich's Office, (913) 296-7354. The KSNA Board of Directors has endorsed a position paper from ANA opposing fee setting (refer to page 3 of the January 27 Legislative Update for the complete position statement).

SB 60, Kansas Senior Care Act, was introduced by Senator Roy Ehrlich (R-Holsington) and twenty-one Republican Senators. The legislation does not contain specific details of the program, but is broadly constructed and allows the secretary of the Department on Aging to determine the program of in-home services for Kansas residents 60 years or older. Hearings were held this week, Carolyn Middendorf testified in favor of the bill on behalf of the association.

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

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

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

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

(E) that an advanced registered nurse practitioner may not prescribed drugs but may transmit prescription orders pursuant to a written protocol as authorized by a responsible physician as herein defined. 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.

(d) An advanced registered nurse practitioner may perform delegated medical acts not otherwise authorized by K.S.A. 65-1113 and amendments thereto only to the extent and in the manner authorized by a responsible physician. "Responsible physician" means a person licensed to practice medicine and surgery who, in accordance with rules and regulations adopted by the state board of healing arts, has accepted responsibility for the actions of the advanced registered nurse practitioner, when such actions constitute delegated medical acts. Nothing herein shall be construed to require the immediate or physical presence of a responsible physician whenever an advanced registered nurse practitioner preforms acts authorized by a responsible physician.

Kansas State Board of Nursing

Landon State Office Building
900 S.W. Jackson, Rm. 551
Topeka, Kansas 66612-1256
913-296-4929

Lois Rich Scibetta, Ph.D., R.N.
Executive Administrator



Bonnie Howard, R.N., M.A.
Practice Specialist

Janette Pucci, R.N., M.S.N.
Educational Specialist

TO: The Honorable Roy Ehrlich, Chairman
and Members of the Senate Public Health
and Welfare Committee

FROM: Dr. Lois R. Scibetta
Executive Administrator

DATE: February 21, 1989

RE: Senate Bill #23

The Advanced Registered Nurse Practitioner Committee of the Board met in Topeka on 2/20/89, and reviewed Senate Bill #23 and related issues.

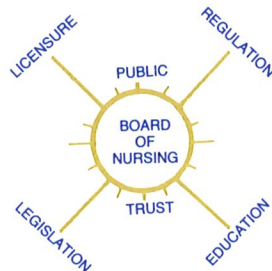
The Committee have asked me to share with you their recommendations and concerns.

The Committee approved the Balloon offered by the KSNA and KMS, presented to the Public Health & Welfare Sub-Committee the week of January 20-27, 1989. It is our understanding that Sub-Committee Chairperson, Alicia Salisbury will be presenting this report on February 23, 1989.

The Board Committee also reviewed the recommended balloon presented by Mr. Gannon, Executive Director of the Board of Healing Arts. The Committee were very distressed with this balloon, and ask the Public Health & Welfare Committee to reject it.

The Board Committee stated that the original bill was designed to settle the issue of "prescriptive powers," and that the balloon suggested by Mr. Gannon, is not germane to this issue, and the Committee stated that it was an effort to control advanced nursing practice. The Committee stated that KSA 65-1113 clearly delegates the roles and responsibilities, as follows in part...

"(d) Practice of Nursing and the execution of the medical regimen as prescribed by a person licensed to practice



SPH/W
2-23-89
Attachment 4

medicine and surgery or a person licensed to practice dentistry." p.5 - Kansas Nurse Practice Act, Rev. 1988

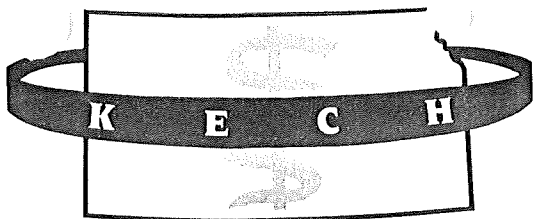
The Board Committee asked that the following be brought to the attention of the Committee:

- 1) The KSBN has investigated at least three reports against ARNP's during the last three years.
- 2) The intent of the Board of Nursing was never to have ARNP's practice medicine. Since MD's have the authority to delegate under the Healing Arts Act, wording should be included which would prohibit nurses from practicing medicine, outside of the legal regulations governing ARNP's.
- 3) The Board Committee are not supportive of one MD delegating medical authority to satellite clinics being managed by ARNP's.
- *4) The Board Committee strongly support the balloon amendment proposed by KSNA and KMS. It has been suggested that the following be added to the balloon, (e), please add, "a licensed dentist or a registered podiatrist."
- 5) The Board Committee are willing and able to cooperate in the revision of the ARNP regulations, in order to clarify the legislative intent.

Thank you for this opportunity to comment. I would be happy to respond to questions, in person, or on the telephone, 296-3068.

LRS:bph

cc: Senator Alicia Salisbury, Chair, Sub-Committee
Dr. Joan Felts, Chair, ARNP Committee
Janette Pucci, Staff



Kansas Employer Coalition on Health, Inc.

1271 S.W. Harrison • Topeka, Kansas 66612 • (913) 233-0351

February 20, 1989

Honorable Roy Ehrlich, Chairman
Senate Public Health and Welfare Committee
Box 35 - State House
Topeka, KS 66612

Dear Chairman Ehrlich:

The Kansas Employer Coalition on Health is 107 employers across Kansas who are concerned about the cost effectiveness of group health insurance. Since 1983 we have sought ways to manage the spiraling costs of purchasing health care benefits for our 300,000 Kansas employees and dependents.

Considering all the wonderful health services available today, we realize, as you do, that no insurance plan can offer employees all the health care benefits they could possibly want. So, employers generally strive to supply a package that offers the most desirable benefits for a particular group of employees.

The cost of providing group health insurance has increased faster than any other cost of doing business. That's why we've been working very hard lately to contain the costs of these benefits--so that less expense has to be shifted to employees and so that more money can go to wages and other benefits. This is a delicate process, especially in negotiated labor contracts.

When government intervenes in this process and mandates a particular benefit, several questionable results are likely to happen:

- 1) The process of quid-pro-quo between employer and employee is distorted.
- 2) The process of having various benefits compete for inclusion in the health plan is sidestepped.
- 3) The desirable pluralistic quality of the American employment-based health insurance system is dealt a blow.

We recognize that you are under tremendous pressure to help many factions who sell valuable services to the public. And sometimes those services seem so desirable that you are hard pressed to say no. But consider: those services have come to you for support because they have not flourished in the marketplace of ideas.

Perhaps those services need more exposure. Perhaps purchasers need more education about the relative costs and benefits of those services. Such remedies are available. But the marketplace of ideas is not served well by sidestepping the selection process and elevating some services to the status of required benefits.

S.P.H.W.
2-23-89
Attachment 5


Hon. Roy Ehrlich
February 20, 1989
Page 2

As we see mounting pressure in the legislature for mandated benefits like those requiring coverage of services by social workers (S. 98), we feel compelled to sound an alarm: you are looking at mandated benefits. They may be good things. But who's to say they're more worthy than all the other benefits that compete for inclusion in a benefits package?

We think the answer is that workers and employers are the best judges of what goes into a benefits package.

Please distribute the enclosed copies of this letter to members of your committee.

Sincerely,


James P. Schwartz, Jr.
Consulting Director

JPS:nk

cc: Gary Bahr, Chairman
Board of Directors