

Approved _____
Date 3-15-89

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at
Chairperson

4:00 ~~xxx~~ p.m. on February 27-II, 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:

Charles Romig, Ph.D., Assistant Professor, Counseling and School of
Psychology Program, College of Education, Wichita State University
Chip Wheelen, Director of Public Affairs, Kansas Medical Society
John Yeats, Senior Pastor, Shawnee Heights Baptist Church, Topeka, KS
Mary Ann Gabel, Executive Director, Behavioral Sciences Regulatory Board
David Rodeheffer, Ph.D., President, Kansas Psychological Association
Richard Morrissey, Director, Bureau of Adult and Child Care, KDHE
Barry Feaker, Executive Director of the Topeka Rescue Mission
Daniel Caliborn, Ph.D., Chairman, Task Force on Credentialing, Kansas
Association of Professional Psychologists

The meeting was called to order at 4:05 p.m. in room 527-South.

Charles Romig, Ph.D., continued his testimony which, due to lack of time, he was unable to complete in the regularly scheduled committee meeting of February 27, 10:00 a.m. meeting. Dr. Romig stated that potential clients seeking marriage and family therapy are at risk for harm by virtue of their inability to distinguish between qualified practitioners and those who are not. Agencies who offer such services have no mandated guidelines for determining who is qualified to provide such services. No hard data could be provided to the Credentialing Committee because no method for collecting data exists. No enforceable guidelines exist defining unethical practice among those who call themselves marriage and family therapists and little recourse is available to those harmed by incompetent or unethical therapists. (Attachment 1)

Chip Wheelen, Kansas Medical Society, appeared in support of SB-257 as introduced. Mr. Wheelen stated that following the submission to the KDHE Credentialing Committee, the request for licensure of marriage and family therapists, the Kansas Psychological Society felt there was insufficient evidence to justify the need for licensure. The same question was referred to the Kansas Medical Society which concluded it would be helpful to Kansas physicians if there was a registration system whereby the physician could determine whether or not an individual marriage counselor had met certain criteria and therefore, might be an acceptable professional to whom the patient could be referred for help. For this reason, the Kansas Medical Society support the concept of registering marriage and family therapists. The balloon bill indicates the amendment suggested which is believed to clarify legislative intent and better define the scope of practice being granted to marriage and family therapists. (Attachment 2)

John Yeats, Senior Pastor, Shawnee Heights Baptist Church, appeared stating that SB-257 would conflict with the free exercise of religious organizations. Pastor Yeats suggested a new section 10 (c) "Nothing in the marriage and family therapists registration act shall be construed to prevent premarital, marital, divorce and family counselling by person(s) employed by or supervised by a religious, nonprofit or charitable organization." (Attachment 3)

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

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

room 526-S, Statehouse, at 4:00 ~~xxx~~ p.m. on February 27-II, 19 89

Mary Ann Gabel, Executive Director, Behavioral Sciences Board, appeared to call attention to specific sections of SB-257 which the board views as potentially problematic and would need clarification should this bill be passed. (Attachment 4)

David Rodeheffer, Kansas Psychological Association, appeared and expressed concerns with SB-257 stating the requested registration would not be registering a profession but a "specialized mode of treatment." Dr. Rodeheffer said his organization favored the approach contained in SB-258 registering with the state those individuals who practice some aspect of mental health counseling. (Attachment 5)

Richard Morrissey, KDHE, appeared concerning SB-257. Mr. Morrissey stated that the application of the Kansas Association of Marriage and Family Therapy group went through the review process and this is the applicant's credentialing bill. The final report by the Secretary of the Kansas Department of Health and Environment concluded no legislative action be taken on SB-257 and suggested that the legislature study the issue of sexual exploitation and initiatives taken in Minnesota and other states to combat the problem. It was also pointed out that the "scope of practice" definition agreed upon by the applicant during the review process is not the same as the one proposed in this bill, also educational requirements are not the same as the ones provided during the hearings with the technical committee. (Attachment 6)

Written testimony from Mr. Barry Feaker, Topeka Rescue Mission, was presented to the committee. (Attachment 7) Mr. Feaker was unable to attend the afternoon committee meeting. Mr. Feaker stated in his testimony that there is no question that some of the best counselling on marriage and family comes from pastors, friends, relatives and even neighbors. Also, licensing of marriage and family therapists is an extremely touchy subject because it flirts with legislating matters of conscience and with religious freedom.

Daniel C. Claiborn, Ph.D., Chair, Task Force on Credentialing, presented written testimony as he was unable to attend the afternoon committee meeting. (Attachment 8) Dr. Claiborn stated his organization opposes registration of marriage and family therapists by the state of Kansas on the grounds that there is no need for registration since such registration would not protect the public from documented harm. The American Association for Marriage and Family Therapy provides certification in family therapy through its membership and consumers can use AAMFT certification in selecting an appropriate provider.

The meeting adjourned at 4:50 p.m. and the committee will convene at 10:00 a.m. February 28, 1989, in room 526-South.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE February 27, 1989 - 4 pm meeting

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

<u>Bob Kimball</u>		<u>WU - Social Work student</u>
<u>Richard Morrissey</u>		<u>KDHE</u>
<u>STAN GRANT</u>		<u>KDHE</u>
<u>Cathy Rooney</u>		<u>KDHE</u>
<u>Janette Hanzlik</u>		<u>Kansas Psychological Assn</u>
<u>Ellen R. Johnson Topela</u>		<u>A.P.S.</u>
<u>John Yeats</u>		<u>SHBE & Ks/Deb. Cov. of S. Baptists</u>
<u>Mary Ann Habel</u>		<u>BSRB</u>
<u>Paul M. Klotz</u>		<u>Assoc. of CMHCs of Ks., Inc.</u>
<u>John Petersen</u>		<u>Ks Assn of Prof Psychologists</u>
<u>Chip Wheelen</u>		<u>Ks Medical Society</u>
<u>KEITH R LANDIS</u>		<u>CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS</u>
<u>Anthony P. Jurich</u>	<u>Manhattan</u>	<u>KAMFT</u>
<u>Mary Miller</u>	<u>Manhattan</u>	<u>KAMFT</u>
<u>Chuck Romig</u>	<u>Wichita</u>	<u>KAMFT</u>
<u>Candya S. Russell</u>	<u>Manhattan</u>	<u>KAMFT</u>
<u>Anne Smith</u>	<u>Topela</u>	<u>Hein & Abert - KAMFT</u>
<u>Ra Van</u>		<u>KAMFT</u>

Senate Committee on Public Health and Welfare

Testimony re: SB 257

Registration of Marriage and Family Therapists

Dr. Charles Romig

The Wichita State University

I would like to thank the committee for your consideration of this legislation and the opportunity to present my opinion on the matter of registration of marriage and family therapists. Before I comment on the bill, I would like to introduce myself. I am an assistant professor in the Counseling and School Psychology Program in the College of Education at the Wichita State University where I have been a faculty member since August, 1985. In 1982, I completed a Ph.D. in marital and family therapy from Purdue University, where I devoted almost four years of doctoral work to learning about families and marriage and family therapy. From 1982 to 1985 I worked as a marriage and family therapist for Catholic Social Services in Champaign, Illinois. I presently teach coursework in marriage and family therapy and am conducting research on families. I believe I have the training and experience to understand the needs of families and the need to provide quality marriage and family therapy services to families.

I am here to comment on the potential harm to the public that can occur due to the lack of credentialing of marriage and family therapists in the state of Kansas. I have three basic areas of concern. My primary concern has to do with the inability of the public to identify trained marriage and family therapists. A major study on mental health services during the period between 1957 and 1976 showed that 40% of clients sought such services specifically for difficulties with their marriages and another 13% for conflict in parent-child and other family relationships. With such significant numbers of requests, it is imperative that consumers of mental health services be able to identify trained professionals who understand the needs of couples and families.

S RHW
2-27-89 -II
Attachment 1

In the yellow pages from the Wichita area phone book and under the heading "Marriage and Family Counselors", there are 97 individuals and/or agencies listed. It is difficult to say how many persons in the Wichita area are actually using that title or are practicing in the field. I can imagine the confusion a client in a state of crisis might have in trying to locate a competent marriage and family therapist if they utilized the yellow pages. In looking at the listings, many are clinicians licensed in psychology and clinical social work and identify themselves as such. Others simply identify themselves as "board certified", "Kansas certified", or "Ph.D.-Licensed State". I presume that means licensed as a psychologist or clinical social worker, but it is impossible to tell from the listing. Most listings offered neither title or credentials.

It is presumptuous to believe that being licensed in psychology or clinical social work or registered as a master's level psychologist or professional counselor means one is trained in marriage and family therapy. During testimony before the Technical Committee last year, reviewing this application, Dr. Dean Kerkman, then president of the Kansas Psychological Association, stated that being licensed as a psychologist does not necessarily qualify one to do marriage and family therapy. He further stated that additional, specialized training is necessary, and that without disclosure of specific training by the psychologist, the client has no way of knowing if the psychologist is qualified to do marriage and family therapy. I would refer you to the final report of the Technical Committee and the minutes of the hearings to verify these comments. In my experience as a clinician, I was responsible for hiring and supervising numerous marriage and family therapists from a variety of training backgrounds and found that most believed they were adequately trained when they usually had only one course in marriage and family therapy as part of their graduate training. I have found this also to be true from some of my interactions with clinicians here in Kansas. You will likely hear in opposing testimony that marriage and family therapy is a sub-specialty of psychology and/or social work, and therefore, needs no further regulation. Please note that the federal Department of Health and Human Services recognizes marriage and family therapy as a distinct mental health discipline. The National Institute of Mental Health likewise recognizes marriage and family therapy under clinical training grants, giving marriage and family therapy the same standing as psychiatry, psychology, social work, and nursing. Further, the Technical Committee recognized marriage and family therapy requires specialized skills that are acquired through a formal period of study and training. Please understand me, I do not intend to demean my professional

colleagues of other persuasions. My point is that without some objective training and experience standards, it is entirely up to the individual practitioner to decide if he/she is qualified to practice marriage and family therapy. Due to this, nothing prevents anyone from advertising to be a marriage and family therapist and seeing clients, regardless of whether they have any training, or training which does not specifically include marriage and family therapy.

A related area of concern has to do with lack of accountability by agencies who provide marriage and family therapy services. Recently, I received a job announcement for a "family therapist" to work with families with an alcoholic member, some of the most difficult and dysfunctional families. A student of mine inquired about the position and was told that a bachelor's degree was the minimum education requirement for the position. I can assure you that a person with a bachelor's degree, which couldn't be in marriage and family therapy, since no such degree exists, cannot function effectively as a marriage and family therapist. Such an agency, which in this case happens to be tax supported, cannot be held accountable for hiring persons without marriage and family therapy training, because no standards for training and experience exist by which to judge their employment decisions.

The final area of concern involves the inability of a client to take action against an untrained, incompetent, or unethical marriage and family therapist or person claiming to be a marriage and family therapist apart from civil action. The most common complaint in this state made to the Attorney General's office against unregulated mental health clinicians consists of sexual involvement between therapist and client (25-35 complaints each year). Since such therapists are unregulated, if their clients are over age 16, the only recourse the clients have is a civil action against the marriage and family therapist. Even if the action is successful, the clinician could continue practice. Note that these comments are contained in a letter from the Attorney General's office and can be found in the testimony submitted to the Technical Committee. The seriously damaging effects of sexual involvement with clients has been well documented. Such exploitation of clients is perhaps even more a risk when working with couples, since the conflicts and dissatisfactions with their relationship are what bring them into therapy and may make them more vulnerable to the advise of unethical therapists. Registration would hold marriage and family therapists to inform clients of their rights and provide them with information about the means by which they could take action against an unethical or incompetent marriage and family therapist. Presently, this does not have to occur.

In summary, potential clients seeking marriage and family therapy are at risk for harm by virtue of their inability to distinguish between qualified practitioners and those who are not. In addition, agencies who provide marriage and family therapy services have no mandated guidelines for determining who is qualified to provide such services. Finally, no enforceable guidelines exist defining unethical practice among those who call themselves marriage and family therapists and little, if any, recourse is available to those harmed by incompetent or unethical therapists. Nothing prevents such therapists from continuing practice. I would hope this committee would see the wisdom of rectifying this situation by recommending this bill for passage. Thank you.



KANSAS MEDICAL SOCIETY

1300 Topeka Avenue · Topeka, Kansas 66612 · (913) 235-2383

February 27, 1989

TO: Senate Public Health and Welfare Committee
FROM: Kansas Medical Society *Chip Teelen*
SUBJECT: Senate Bill 257, As Introduced

The Kansas Medical Society appreciates this opportunity to appear in support of SB257. As you know, the question as to whether marriage and family therapists should be credentialed, has been studied by a credentialing committee of the Department of Health and Environment. The Secretary of Health and Environment decided that it should be unnecessary to credential marriage and family therapists, but that other protections may be needed.

The application submitted to the KDHE Credentialing Committee was also examined by certain members of the Kansas Psychiatric Society. The conclusion of the Kansas Psychiatric Society was that there is insufficient evidence to justify the need for licensure of marriage and family therapists. This same question was referred to the Legislative Committee of the Kansas Medical Society which discussed the fact that oftentimes patients who are experiencing marital problems will present themselves to their physicians, seeking assistance. The conclusion was that it would be helpful to Kansas physicians, if there was a registration system whereby the physician could determine whether or not an individual marriage counselor had met certain criteria and, therefore, might be an acceptable professional to whom the patient could be referred for help. It is for this reason that we support the concept of registering marriage and family therapists.

We do, however, wish to express some concerns about the wording contained in new section 2. We believe that it is very important that these basic definitions be clarified such that there will not be any confusion in the future as to proper interpretation. This is particularly necessary in regard to the scope of practice of marriage and family therapists. Attached to this testimony are some requested amendments that are significant. We believe that these amendments would clarify legislative intent and better define the scope of practice being granted to marriage and family therapists. The selected wording is based upon a recommendation made by the credentialing committee after many hours of deliberation.

We respectfully request adoption of these proposed amendments prior to recommending SB257 for passage. Thank you very much for considering our concerns.

CW:lg

*SP/HW
2-27-89-II
Attachment 2*

SENATE BILL No. 257

By Committee on Public Health and Welfare

2-14

2-2

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
3

AN ACT providing for the registration of marriage and family therapists; granting powers to and imposing certain duties upon the behavioral sciences regulatory board; declaring certain acts to be unlawful and providing penalties for violations; amending K.S.A. 1988 Supp. 74-7507 and repealing the existing section.

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

New Section 1. Sections 1 through 13, and amendments thereto, shall be known and may be cited as the marriage and family therapists registration act.

New Sec. 2. As used in the marriage and family therapists registration act:

(a) "Board" means the behavioral sciences regulatory board created under K.S.A. 74-7501 and amendments thereto.

(b) "Marriage and family therapy" means the ~~process of providing professional marriage and family psychotherapy to individuals, married couples and family groups, either singly or in groups. Marriage and family therapy includes premarital, marital, divorce and family therapy, and is a specialized mode of treatment for the purpose of resolving emotional problems and modifying intrapersonal and interpersonal dysfunction.~~

(assessment and treatment of cognitive, affective, or behavioral problems within the context of marital and family systems provided

~~(c) "Practice of marriage and family therapy" means utilizing established principles that recognize the interrelated nature of individual problems and dysfunctions in family members to assess, understand and treat emotional, mental and relationship problems.~~

(c) ~~(d)~~ "Marriage and family therapist" means a person who engages in the practice of marriage and family therapy and is registered under this act.

New Sec. 3. The board shall:

(a) Adopt and enforce rules and regulations for the registration

SENATORS OF THE COMMITTEE ON PUBLIC HEALTH AND WELFARE

Re: SB 257 - Marriage and Family Therapists Registration Act

There appear to be some obvious ambiguities in the language of the Marriage and Family Therapists Registration Act that will conflict with the free exercise of religious organizations. Most pastors and churches desire to help people. People who are in marriage crisis and change are people in need of help.

The intent of SB 257 is to create a new level of regulation for individuals desiring to make a livelihood from this area of behavioural therapy. However if the state attempts to regulate religious workers an entirely new scenerio exists that may be too difficult and costly to resolve.

To resolve this conflict we would encourage you to adopt an exclusionary amendment. This amendment would be inserted between lines 160 and 161 of the proposed bill.

New Sec 10

- (c) Nothing in the marriage and family therapists registration act shall be construed to prevent premarital, marital, divorce and family counselling by person(s) employed by or supervised by a religious, nonprofit or charitable organization.

There are several reasons for this exclusionary amendment:

1. This amendment would clarify part of the complex philosophical debate existing between secular and religious behavioral therapists. If religious workers were registered under the provision of this bill then whose theory would be the recognized standard for examination?
2. The exclusionary precedent already exists in the proposed bill. Line 142-152 exempts those individuals previously licensed or registered by a state agency for the practice of medical or mental health. Lines 153-160 exempt the educational community who are attempting to train people in the field of marriage and family therapy.
Now an exemption for religious workers and charitable organizations is in order. The vast majority of Kansans still rely on their local church pastors and church workers for assistance in resolving marriage relationship disfunction.
3. One of the goals of this act is to establish supervision of marriage and family therapists. Supervision already exists with most religious and charitable counselors. The counselors are answerable to their respective boards and governing bodies.

S P/W
2-27-89-II
Attachment 3

4. SB 257 was initiated to register "professional" marriage and family therapists. A definition does not exist for the term "professional" in SB 257. Some of the marriage and family therapy done by religious and charitable organizations is done by those who receive a salary from said organization for various responsibilities including premarriage, marital, divorce, and family therapy.

If passage of SB 257 is deemed advisable, it would be our hope that our Senators would exercise deference to the people who are doing the greatest volume of helping fellow Kansans succeed in marriage and family relationships. The exclusionary amendment is vital to our continuing in this good and lawful work.

John Yeats
Senior Pastor
Shawnee Heights Baptist Church
4335 S. E. 29th Street
Topeka, Kansas 66605
(913) 266-5600

and Legislative Liaison
Committee on Public Affairs
Kansas/Nebraska Convention of
Southern Baptists
5410 S. W. 7th
Topeka, Ks 66606
(913) 273-4880

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. 257

MONDAY, FEBRUARY 27, 1989

SENATOR EHRLICH, VICE-CHAIRPERSON LANGWORTHY AND COMMITTEE MEMBERS:

I am Mary Ann Gabel, Executive Director of the Behavioral Sciences Regulatory Board appearing before you today on behalf of the board, neither in support of nor in opposition to S.B. 257; however, I do wish to call your attention to specific sections in this bill which the board views as potentially problematic.

- 1) New Sec. 3 (e) [lines 55-59]. It is unclear to the board how it is to study and investigate the practice of marriage and family therapy in order to improve the standards imposed for registration of this group of practitioners. It is unclear what the legislature's expectation will be, what this mandate will entail and what the cost will be to satisfy such a requirement.
- 2) New Sec. 3 (f) [lines 60-61]. Is it the board's responsibility to formulate and implement a code of ethics? The absence of an established and accepted code of ethics raises a question as to whether a profession exists. It is, however, the board's responsibility to promulgate rules and regulations that govern the practice of a regulated group. Such practice standards should be consistent with an established and accepted professional code of ethics. Authority to adopt such rules and regulations appears in Sec. 14 (j) [lines 247-252].
- 3) New Sec. 5 (a)(3)(B) [lines 78-81]. What does a master's or doctoral degree "in a related field" mean? If this clause is needed because there are no established educational programs in marriage and family therapy, is marriage and family therapy a discipline or is it a "specialty" area or subset of the practice of psychology, social work, or counseling?

SPH/W
 2-27-89-11
 Attachment 4

- 4) New Sec. 5 (a)(4) [lines 82-84]. Reference to the board's adoption of a code of ethics is addressed in #2.
- 5) New Sec. 9 [lines 117-135]. The statutes governing the practice of psychology, social work, and professional counseling authorize the board to refuse to issue, suspend, limit, refuse to renew or revoke any license or registration if the registrant/licensee has had a registration, license or certificate as a (profession) revoked, suspended or limited, or has had other disciplinary action taken, or an application for a registration, license or certificate denied, by the proper regulatory 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. The board believes the registration act for marriage and family therapists should be consistent with existing statutes.
- 6) New Sec. 10 (a) [lines 140-152]. This section exempts a number of currently regulated professions. The board questions who would be left to regulate.
- 7) New Sec. 12 [lines 183-190]. The statutes governing the practice of social work and psychology authorize the board to assess a late renewal penalty fee. There is no provision for the board to assess such a fee.
- 8) Sec. 14 (k) [lines 253-254]. L. 1988, Ch. 304, Sec. 3.(d) amended K.S.A. 1987 Supp. 74-7501 (d) to read as follows: "The board may appoint an executive secretary director who shall be in the unclassified service of the Kansas civil service act and shall receive an annual salary fixed by the board, subject to approval by the governor. The board may employ clerical personnel and other assistants, all of whom shall be in the classified service under the Kansas civil service act. The board may make and enter into contract of employment with such professional personnel as necessary, in the board's judgment, for the performance of its duties and functions and the execution of its powers." Apparently the change in the executive secretary's title to that of executive director was not carried forward to K.S.A. 1987 Supp. 74-7507 (k). Therefore, the board requests that this oversight be amended according.
- 9) There is no provision for an advisory committee to perform the duties necessary to accomplish enactment of this legislation.

Thank you for providing me an opportunity to present the board's concerns. I will be happy to answer any questions you may have.



KANSAS PSYCHOLOGICAL ASSOCIATION

TESTIMONY ON SENATE BILL #257

February 27, 1989

Chairman Ehrlich, members of the Committee, I am Dr. David Rodeheffer and I am here today representing the Kansas Psychological Association, its President and its Board of Governors. I am here today to express some concerns our organization has with respect to Senate Bill #257, proposing registration of "marriage and family therapists".

The general thrust behind this proposed legislation, as I understand it, is a wish to protect the public from unqualified individuals, advertizing and providing marriage and family therapy to unsuspecting individuals who need such services. KPA has long been an advocate of protection of the public through legislation that assures that only well-qualified professionals can present themselves to the public as providers of mental health services. It has long been our contention that the professions who meet high standards of care are those which are trained in programs associated with well-defined professions that encompass the broadest base possible of educational and training background.

While the intent of this legislation is appropriate and, on the surface in the interest of the public, it is KPA's position that the legislature should be aware that what you would be registering with passage of this bill is not a profession per se, but rather a "specialized mode of treatment" or theory, as stated in lines 32 and 33 of the bill. We ask that you consider carefully if, in fact, you wish to move away from registering professions to registration of specialized treatments. Such a shift in direction could lead to numerous other individuals, "specialists", who have developed other specific and specialized treatment skills to seek registration. It is our organization's position that professions, not specialized treatment modalities, should be registered or licensed.

When the legislature sanctions a profession, you give your approval to a defined spectrum of skills, abilities, and qualifications, including a delineated educational and training curriculum and code of ethics. As you consider this proposed legislation, you will find no such delineated training and educational requirements, plus no code of ethics. The Behavioral Sciences Regulatory Board is left with the task of not only implementing such stan-

dards, but also formulating them as well. By comparison for example, the licensing statutes for licensed psychologists give a clear description of required course work and hours of supervised training. The difference, we believe, is that the psychology licensing statutes are aimed at an established profession, not a specialized mode of treatment.

There are a number of other aspects of this legislation which we believe are troublesome, including the fact that New Section 4 could be interpreted as preventing social workers, psychiatrists and psychologists, who have particular expertise in this treatment modality, from presenting themselves as marriage and family therapists. However, our general concern remains with the fact that this legislation proposed to register a modality and not a profession and that such a shift in registration statutes represents, we believe, an ill-advised change in direction. It is our position that a more generic approach, such as contained in SB #258, be undertaken, whereby individuals who practice some aspect of mental health counseling would register with the state. We feel it is a more realistic and appropriate way of assuring some form of public protection and redress for unethical and incompetent services than the registration of the various modalities.

Thank you for the opportunity to present our organization's position concerning SB #257. I would be happy now, or in the future, to answer any questions you might have concerning this issue.

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

THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

by

THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

Senate Bill 257

As you are aware, the statutes allow health care occupations seeking state credentialing (licensure or registration) of members of their occupation to submit a credentialing application to the Kansas Department of Health and Environment for review. The Kansas Association of Marriage and Family Therapy submitted an application to the department. The application has been taken through the review process and this is the applicant's credentialing bill.

The end product of the review process is a final report by the Secretary of Health and Environment specifying findings on whether the criteria are met and a recommendation on whether the occupation should be credentialed to protect the public from specified harm.

In summary, the final report by the Secretary to the legislature concluded that all of the statutory criteria are met. However, there is not a need to license or register marriage and family therapists in order to protect the public from the documented harm. Therefore, a recommendation was made that the application be denied. Rationale for the decision is as follows. (Refer to attachment for final report.)

It was found that the only documented case of harm was due to sexual exploitation of clients by psychotherapists. The technical committee noted that regulations in the form of credentialing would not reduce the problem of sexual exploitation. In addition, harm caused by sexual exploitation is not generated by a lack of specialized training but from ethical or moral failures. Credentialing protects the public through setting minimum standards of education and training in order to practice. Therefore, credentialing would not address the issue of harm in this instance. Hence, the department does not recommend registering marriage and family therapist to protect the public from sexual exploitation.

Some type of action is needed to address the problem of sexual exploitation of clients. Documentation revealed that sexual exploitation is a very real and widespread problem. National studies show that five to seven percent of male psychiatrists, PhD psychologists, and physicians reported having had sexual intercourse with clients while clients were in treatment. Double that number have had erotic contact with clients. Complaints by Kansans to the Attorney General's office about noncredentialed therapists and complaints to the Board of Behavioral Sciences and the Board of Healing Arts about credentialed therapists reveal that the problem is here at home as well. All of the major health professions have declared that sexual intimacy (intercourse or erotic contact) with a client is unethical and is classified as "sexual exploitation." Studies show that 90 percent of the clients involved sexually with therapists sustain some type of damage - ranging from personality negatively affected (34 percent), hospitalization (11 percent), and suicide (one percent).

The Secretary, in the final report, recommended that legislation modeled after initiatives taken in Minnesota be considered to combat the problem of sexual exploitation. The recommended legislative initiative package includes: (1) changing the criminal law to make it unlawful for a mental health provider to sexually exploit a client; (2) changing the civil law to allow victims of sexual exploitation to sue for damages received due to incidents; (3) requiring mental health providers to distribute to clients prior to treatment educational material which includes a statement that sexual intimacy is never appropriate and should be reported; and (4) establishing a regulatory body to oversee the unlicensed/unregistered mental health provider.

These initiatives are preventive in nature, provide consumer education and consumer access to information and correct the currently inadequate recourse avenues available to victims. These initiatives serve the public and address a multiplicity of issues involving sexual exploitation.

Recommendation

In summary, the department recommends that no legislative action be taken on Senate Bill 257 and that the legislature study the issue of sexual exploitation and initiatives taken in Minnesota and in other states to combat the problem.

In addition, the department would like to point out that the scope of practice definition agreed upon by the applicant during the review process in order for Criterion VII to be met is not the same as the one proposed in this bill and the educational requirements in the bill are not the same as the ones the applicant provided during the hearings that the technical committee and Secretary used to determine if Criterion II was met.

Presented by: Richard Morrissey, Director
Bureau of Adult and Child Care
Kansas Department of Health and Environment
February 27, 1989

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

EXECUTIVE SUMMARY OF THE FINAL REPORT

MARRIAGE AND FAMILY THERAPISTS' CREDENTIALING APPLICATION

The Secretary of Health and Environment Recommendations to the Legislature:

I concur with the technical committee that all statutory criteria are met. However, I disagree with the technical committee's conclusion that there is a need to credential marriage and family therapists in order to protect the public from the documented harm. Therefore, I recommend that the application be denied since protection of the public can be improved without credentialing the occupation.

The technical committee found that the only documented case of potential harm was due to sexual exploitation of clients by psychotherapists. Research studies show that sexual exploitation by psychotherapists do occur and that 90 percent of the clients who are sexually exploited sustained some type of damage. The technical committee noted that regulating marriage and family therapists would not reduce the problem of sexual exploitation. I agree with the findings and the conclusion made by the technical committee. However, I conclude that since regulation would not reduce the incidence of sexual exploitation, there is no need to credential marriage and family therapists. It appears that harm caused by sexual exploitation is not generated by a lack of specialized training but from ethical or moral failures. Credentialing protects the public by setting minimum standards of education and training in order to practice. Therefore, credentialing in this case would not address the issue of harm.

I recommend that the legislature consider enacting legislation similar to the Minnesota Client Protection System to offer the public protection from sexual exploitation by psychotherapists. The Minnesota Client Protection System involves: 1) Changing the criminal and civil laws to include the therapists-client sexual relationship; 2) requiring all psychotherapists to distribute a "client bill of rights" to clients prior to treatment; and 3) establishing a board of unlicensed mental health service providers. This system was specifically designed to combat unethical and immoral issues involving psychotherapists and clients. These measures offer protection to the client from sexual exploitation by making the act illegal, providing victims court recourse, educating the public about unethical acts, making available to the public information about the training and certification of unlicensed practitioners, and providing recourse to victims through board sanctions of unlicensed practitioners. The unlicensed mental health service providers board will be able to gather information about marriage and family therapists and other unlicensed mental health providers that is currently not available. This information will formalize state monitoring of the issues while providing a mechanism for determining if other possible actions such as title protection for certain occupational groups is needed.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

FINAL REPORT TO THE LEGISLATURE
FROM THE SECRETARY
ON THE APPLICATION FOR CREDENTIALING OF
MARRIAGE AND FAMILY THERAPISTS

The Kansas Association of Marriage and Family Therapy (KAMFT) submitted an application to the Kansas Department of Health and Environment to be reviewed through the credentialing review process consistent with the criteria established by the 1986 legislature. KAMFT seeks licensure by the State of Kansas for individuals providing marriage and family therapy. The applicant desires to restrict who can practice marriage and family therapy and what titles can be used by those licensed. The titles the applicant desires to safeguard are: marriage and family therapist, marriage and family counselor, marriage therapist or counselor, and family therapist or counselor.

The definition of scope of practice of marriage and family therapy recognized by the technical committee and Secretary is:

The assessment and treatment of cognitive, affective, or behavioral problems within the context of marital and family systems.

The application has been reviewed according to the Kansas Credentialing Act (KSA 65-5001, et seq) by a technical committee and the Secretary of Health and Environment. The purpose of the review process is to provide the legislature with a thorough analysis of the application and to make recommendations on whether there is a need for credentialing and, if so, what level or levels of credentialing is appropriate. The legislature is not bound by these recommendations. Attached is a copy of the technical committee's report.

The technical committee found that the criteria set out by KSA 65-5006 have been met. I concur with the technical committee's findings and conclusions about the criteria. In summary, the technical committee found:

- The applicant has met Criterion I by demonstrating that the unethical psychotherapist, which would include marriage and family therapists, who sexually exploits a client can harm the client. "The potential for such harm is recognizable and not remote." However, regulating marriage and family therapists would not eliminate or reduce the problem.

Research studies were presented that depicted the percentage of mental health practitioners, specifically 10 percent of the psychologists and/or psychiatrists, who have reported engaging in sexual contact or intercourse with clients. Other studies showed that 90 percent of those clients who had been sexually involved with therapists sustained some type of damage, including

personality negatively affected (34 percent), hospitalization (11 percent), and suicide (one percent). The potential for such harm appears not to be remote as illustrated by the complaints against unregulated therapists that were filed with the Kansas Attorney General's office. However, regulation would not eliminate the problem as shown by actions taken by the regulatory board for licensed mental health practitioners nor would regulation reduce the problem.

- The applicant has met Criterion II by demonstrating that "marriage and family therapists require specialized skills and training" and that these skills and training can be "acquired through a formal period of advanced study or training" from an accredited program and that continuing education is available to acquire new information regarding the practice.

Evidence was presented that showed the body of knowledge is identifiable (e.g., human development, marital and family treatment models) to the skills needed to counsel clients within the context of the systems theory. The advanced formal study and training to meet minimum entry level standards to practice can be acquired from an accredited bachelor's degree program in marriage and family therapy.

- The applicant has met Criterion III by demonstrating that "the occupation does not perform, for the most part, under the direction of other health care personnel or inpatient facilities providing health care services."

Evidence showed that members of the Kansas Association of Marriage and Family Therapy work in a variety of settings that are not under the direction of other health care personnel or inpatient facilities. For example, 29 percent of the marriage and family therapists were in private practice, 14 percent worked for a private social service agency, 10 percent were university faculty, and nine percent worked in hospitals.

- The applicant has met Criterion IV by rationalizing that "the client is not effectively protected from harm by private certification of members of the occupation or by means other than state credentialing."

Evidence showed that certification by the American Association of Marriage and Family Therapy would provide some protection to the public through the established educational/training standards and code of ethics adhered to by the members; however, membership and certification is voluntary. Another form of protection is through the

regulation of marriage and family therapists who are licensed in another mental health occupation, but only an estimated 31 percent of marriage and family therapists are licensed in either social work or psychology. Not all individuals practicing marriage and family therapy are under one of these jurisdictions.

- The applicant has met Criterion V by showing that "the effect of credentialing the occupation on the cost of health care to the public is minimal."

Licensure does not guarantee third-party reimbursement; therefore, licensure would not necessarily increase fees, salaries, or wages of marriage and family therapists. Studies by the U.S. Office of Personnel Management showed that increasing competition does extend the pool of reimbursement providers. It does not subsequently lead to greater utilization of services; there is a substitution of service delivery. In addition, it appears that marriage and family therapists' fees are generally lower than psychologists.

- The applicant has met Criterion VI by illustrating that credentialing of the occupation probably would not limit the availability of marriage and family therapists practicing in Kansas.

Approximately 60 percent of the Kansas graduates in marriage and family therapy leave the state for more promising employment. Presently, many facilities cannot afford to hire marriage and family therapists because insurance companies will not pay for services. Licensure may actually increase the number of marriage and family therapists practicing in Kansas.

- The applicant has met Criterion VII since it agreed to change the definition of the scope of practice. Due to this change, "the scope of practice is identifiable."

The applicant originally defined marital and family therapy as "the diagnosis and treatment of nervous and mental disorders, whether cognitive, affective or behavioral, within the context of marital and family systems." From the information provided, it appears that marriage and family therapists do not have the training in the application of the DSM-III classifications of mental disorders. Rather marriage and family therapists are trained to recognize problems (e.g., life cycle changes) that are not necessarily attributed to mental disorders. The technical committee concurred that if the applicant group agreed to change the definition of the scope of practice to "the assessment and treatment of cognitive, affective, or behavioral problems within the context of

marital and family systems," then the criterion would be met. The applicant spokesperson told staff that the applicant could live with the suggested changes to the definition of the scope of practice.

- The applicant has met Criterion VIII by manifesting supportive information that "the effects of credentialing of the occupation on the scope of practice of other health care personnel, whether or not credentialed under state law, is minimal."

Numerous letters from nonregulated and regulated occupations that provide family counseling, such as ministers/pastors, judges, attorneys, and court service personnel, supported credentialing efforts of marriage and family therapists. No information was provided predicting a negative affect on nonregulated occupations if marriage and family therapists are credentialed. It appears that the effects of credentialing would be minimal on all of the credentialed mental health occupations since they are excluded from most of the requirements of the proposed legislation.

- The applicant has met Criterion IX by demonstrating that there are "nationally recognized standards of education that exist for the practice of the occupation and are identifiable."

The Commission on Accreditation for Marriage and Family Therapy Education is the accrediting agency recognized by the Department of Health and Human Services. Kansas State University has the only accredited program in Kansas at this time.

Since the applicant agreed to change its scope of practice, then all of the criteria have been found met.

The only documented case of potential harm presented by the applicant that met the requirements of Criterion I was due to sexual exploitation of clients by psychotherapists. The following options were considered by the technical committee as means to protect the public from sexual exploitation. These options are listed from the least restrictive form of regulation to the most restrictive form of regulation. In addition to looking at alternative forms of regulation of marriage and family therapists, the technical committee considered the Minnesota Client Protection System.

Alternative Forms of Credentialing

- 1 Changing the criminal and civil laws to include the client-therapist sexual relationship. (This is a part of the Minnesota Client Protection System.)

- 2 Mandating that marriage and family therapists distribute to clients prior to treatment educational information referred to as a "client bill of rights." (This is a part of the Minnesota Client Protection System.) The statement lists such information as the therapist's training, education, theoretical approach, unethical actions, and complaint systems.
- 3 Creating a title protection law that recognizes the American Association of Marriage and Family Therapy's educational/training standards and allows only those individuals who are registered with the association or who are registry eligible to call themselves the various titles used by marriage and family therapists. This measure provides state recognition of the occupation without the use of a state regulatory agency as an enforcement body. The enforcement system would be the local court system.
- 4 Creating a registration law which provides for state recognition of the occupation and title protection. Specifically, those with special education/training and who are registered can call themselves the titles used by marriage and family therapists. The enforcement body would be a state regulatory board.
- 5 Creating a licensure law which provides state recognition of the occupation, title protection, and protection of the defined scope of practice (i.e., only those licensed can practice).

The Minnesota Client Protection System includes: (1) changing the criminal and civil laws to include the client-therapist sexual relationship; (2) requiring all psychotherapists to distribute educational material to a client prior to treatment (referred to as a "client bill of rights"); and (3) establishing a Board of Unlicensed Mental Health Service Providers. In regard to the board, all mental health providers who are not required to be licensed must file certain information with the board in order to practice. The client protection system was specifically designed to deal with moral and ethical issues involving psychotherapists and clients. For detailed information about the various credentialing alternatives and the Minnesota Client Protection System, refer to the final report and recommendations of the technical committee, pages 19 through 25.

The technical committee concluded that regulation would most likely not eliminate nor reduce sexual exploitation of clients by marriage and family therapists. However, the technical committee felt that providing victims of sexual misconduct by a marriage and family therapist a recourse other than the current court system was needed. Therefore, the technical committee found that a need for credentialing exists.

After applying the criteria set by KSA 65-5007, the technical committee concluded:

- Licensure would be too restrictive in that the state would be limiting marriage and family counseling to one certain therapy

approach. The functions of marriage and family therapy (i.e., systems approach) is used by other counseling occupations. Protecting the scope of practice (i.e., who can use the systems approach) was not necessary to protect the public.

- Protection from unethical acts can more likely be achieved from those who have been properly trained and have had an ethics course than from those persons who are not properly trained. Therefore, registration could protect the public and provide a recourse mechanism to victims of sexual assault.
- Several committee members supported title protection over registration if another recourse system, such as changing criminal or civil laws, or establishing a board of unlicensed mental health providers were enacted. The committee agreed that mandating educational material known as a "client bill of rights" would be a preventive tool.

The technical committee recommended:

- Registration as the appropriate level of credentialing in order to identify for the public appropriately trained marriage and family therapists and to provide victims of sexual exploitation a recourse mechanism against unethical marriage and family therapists.
- The registration law should include a provision mandating that marriage and family therapists, prior to treatment, provide clients with educational materials referred to as a "client bill of rights."
- Further consideration of the Minnesota Client Protection System should be made since the documentation provided in the review shows that sexual exploitation is not remote and can be committed by members of all psychotherapy professions whether the occupation is licensed or not.

Secretary's Conclusions and Recommendations

- 1 I concur with the technical committee that all statutory criteria are met. However, I disagree with the technical committee's conclusion that there is a need to credential marriage and family therapists in order to protect the public from the documented harm. Therefore, I recommend that the application be denied since protection of the public can be improved without credentialing the occupation.
- 2 I conclude that since regulation would not reduce the incidence of sexual exploitation there is no need to credential marriage and family therapists. It appears that harm caused by sexual exploitation is not generated by a lack of specialized training but from ethical or moral failures. Credentialing protects the public

by setting minimum standards of education and training in order to practice. Therefore, credentialing in this case would not address the issue of harm.

- 3 I recommend that the legislature consider enacting legislation similar to the Minnesota Client Protection System to offer the public protection from sexual exploitation by psychotherapists. The Minnesota Client Protection System involves: (1) changing the criminal and civil laws to include the therapist-client sexual relationship, (2) requiring all psychotherapists to distribute a "client bill of rights" to clients prior to treatment, and (3) establishing a board of unlicensed mental health service providers. This system was specifically designed to combat unethical and immoral issues involving psychotherapists and clients. These measures offer protection to the client from sexual exploitation by making the act illegal, providing victims court recourse, educating the public about unethical acts, making available to the public information about the training and certification of unlicensed practitioners, and providing recourse to victims through board sanctions of unlicensed practitioners. The unlicensed mental health service providers' board will be able to gather information about marriage and family therapists and other unlicensed mental health providers that is currently not available. This information will formalize state monitoring of the issues while providing a mechanism for determining if other possible actions, such as title protection for certain occupational groups, are needed.

SB-257 - MARRIAGE AND FAMILY THERAPISTS REGISTRATION ACT
SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

1. Problems

Without very careful definitions of what constitutes a Family Therapist the Legislature will be setting itself up to give the appearance of restricting individuals' freedom to seek advice where they choose and of restricting the freedom of individuals to express their opinions on the subjects of marriage and family. Too broad a definition would surely bring charges of violations of citizens' First Amendment rights. Too narrow a definition would effectively emasculate the proposed legislation.

2. Religion.

The matter of marriage and family problems are traditionally seen as matters of conscience. As such, they are outside the proper area of competence of government. Counseling in these matters has been done by ministers and other representatives of religion. Any attempt by government to regulate the ability to provide counseling will be seen not only as an attempt to interfere with the conscience of citizens but as an infringement on their religious freedom as well.

To grant a blanket exception to everyone with any religious credentials would simply provide motive for charlatans to establish "churches" in order to circumvent the intent of the legislation (and to evade taxes as well) while lending them a cloak of religious respectability, making it easier for them to mislead the gullible.

3. Administration.

What criteria would the legislature establish for determining the competence of an individual to serve as a therapist? Kansas mental health hospitals and centers are overflowing with certificated and credentialed staff, and yet the ever-growing number of mentally troubled people who join the ranks of the homeless because of their inability to manage their own affairs gives testimony to the futility of relying on formalized training as the sole requirement for effectively governing human affairs of personality and conscience.

4. Protectionism.

If the intent of the proposed Bill is to protect "consumers" of counseling services it should be borne in mind that every restriction on providers of goods or services carries with it a decline of the right of choice of the consumer. In the case at hand, there is no tangible product whose value can be compared with "going rates" nor is there a definable end result against which the "quality" of the guidance given can be weighed. In view of this, it is highly doubtful that any licensing requirements that might be set up could be effective in protecting the "consumer" from being bilked or guaranteeing that the advice to be given would be effective in the resolu-

S P H / W
2-27-89-II
Attachment 7

tion of the problems the client might be experiencing.

There can be no question that some of the best counseling on marriage and family comes from pastors, friends, relatives, and even neighbors. Would we require them to be licensed? Or is their advice any less effective because they might request some kind of payment for their services?

Licensing of marriage and family therapists is an extremely touchy subject because it flirts with legislating matters of conscience and with religious freedom. If requirements were written in such a way that the pitfalls could be avoided the result would be such a watered-down package that it would probably do little but increase red tape, bureaucracy, and administrative costs.

Past attempts to curtail the activities of charlatans have simply inspired them to become more sophisticated and there is little hope that licensing of counselors would put a stop to abuses. Let the buyer beware appears to be the most reasonable remedy available.

Mr. Barry Feaker
Executive Director of the Topeka Rescue Mission
605 North Kansas
Topeka, KS 66614
354-1744

RE: SENATE BILL 257
"An Act Providing for the Registration of Marriage and Family Therapists"
COMMITTEE ON PUBLIC HEALTH AND WELFARE

Daniel C. Claiborn, Ph.D.
Chair, Task Force on Credentialing
Past-President, Kansas Association of Professional Psychologists

February 27, 1989

The Kansas Association of Professional Psychologists opposes registration of marriage and family therapists by the state of Kansas on the grounds that there is no need for such registration. We agree with the Secretary of Health and Environment's conclusion that no need for credentialing has been demonstrated, since credentialing would not protect the public from documented harm. The other legislation currently being considered would be a much more relevant and direct approach toward protecting the public from the dangers of sexual exploitation by psychotherapists.

KAPP would like to point out that the practice of marriage and family therapy is already regulated in the state of Kansas through laws governing the practice of medicine, psychology, social work, and counseling. There are over 3,000 social workers in the state, 600 of whom are licensed at the advanced clinical level. There are over 400 psychologists and hundreds of psychiatrists as well, not to mention psychiatric nurses, Masters level psychologists, and professional counselors.

A survey of licensed psychologists, psychiatrists, and social workers conducted by KAPP in 1988 revealed that over 90% of these professionals either considered their graduate program to have given them adequate training in marriage and family therapy or took additional training past the graduate degree. In their work with clients, these professionals stated that they utilized the framework, techniques, or principles derived from family systems theory either all of the time or a great deal of the time (psychologists-53%, psychiatrists-70%, social workers-80%).

Finally, KAPP would like to note that the American Association for Marriage and Family Therapy (AAMFT) provides certification in family therapy through its membership, and that consumers can use AAMFT certification in selecting an appropriate provider. Currently, over 50 licensed professionals in Kansas (psychologists, social workers, physicians, and nurses) have clinical membership in AAMFT.

KAPP also opposes credentialing of marriage and family therapists on two other primary grounds. First, the scope of practice requested, namely "to assess, understand, and treat emotional, mental, and relationship problems", goes far beyond the training and education that would be required. KAPP believes that the assessment and treatment of emotional and mental problems requires education and training in diagnosis, psychopathology, and abnormal psychology; courses and practica in a range of counseling and psychotherapeutic techniques beyond marriage and family therapy; and background in the core science areas of psychology and sociology.

S P & W
2-27-89-II
Attachment 8

Of particular importance, we feel, is course work and training in diagnostics so that the provider would know the etiology of the disorder being treated and whether or not marriage and family therapy might be an appropriate modality to use. KAPP would like to point out that mere training in the use of DSM-III-R (Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association) does not adequately prepare a professional to assess or diagnose mental disorders. The DSM-III-R is merely a system used for the labeling of such disorders.

KAPP would also like to note that the typical Masters degree in "marriage and family therapy" includes no course work in psychology, psychopathology, or abnormal behavior, or training in a range of therapeutic modalities. Under the currently proposed bill, it would literally be possible for a practitioner to "assess, understand, and treat" emotional and mental problems without ever having taken a course in psychology, psychopathology, diagnosis, or abnormal behavior.

KAPP is of the opinion that to register marriage and family therapists under the scope of practice proposed in Senate Bill 257 would constitute a danger to the public since it might lead the consumer to expect a level of skill and training that might very well not be present.

Secondly, KAPP feels strongly that passing a bill such as is being proposed by the marriage and family therapists would set an unwise precedent inasmuch as it would provide for the credentialing of a specialty, a single type of therapy, as though it were a profession. This could open the door for a number of other groups with equally legitimate, albeit narrow, training to request credentialing. These groups could include group therapists, hypnotherapists, biofeedback therapists, assertiveness-training therapists, stress management therapists, massage therapists, and nutrition therapists. The history of marriage and family therapy as a field, as well as its present state of scholarship, demonstrates it to be a specialty within the broad domain of psychotherapy. The leadership in marriage and family therapy comes from the traditional professions.

In this regard, a study published in 1988 (Keller, Huber, and Hardy: "Accreditation: What Constitutes Appropriate Marriage and Family Therapy Education?", Journal of Marital and Family Therapy, 1988, Vol. 14, No. 3, pp. 297-305), surveyed training directors and members of the American Association for Marriage and Family Therapy across the United States. The results of this study showed that 58% of the training directors and 73% of the clinical members identified themselves as a member of a profession other than "family therapist", and only half of the total group believed that marriage and family therapy should be treated as a separate discipline. Another study published in 1988 (Earle: "MFT Viewed as "Young" Profession by Others", Family Therapy News, Nov/Dec 1988, p. 6) surveyed lawyers, physicians, psychiatrists, psychologists, and social workers in three states (one with a new MFT regulatory law, one with an old regulatory law, and one with no regulatory law). The professionals studied in this survey indicated that law and medicine were considered to be professions in

their own right, whereas "marriage and family therapy" was the only occupation viewed by this diverse group as being "more like a subspecialty than a profession".

KAPP is sincerely concerned about legislation that would permit a narrowly trained, one-tool provider, and particularly one who has no background in psychology, abnormal behavior, or mental illness, to hold him- or herself out to the public as competent to assess and treat emotional and mental problems in a broad sense.

SPECIFIC REACTIONS TO SENATE BILL 257

New Section 2, Subsections b and c

KAPP would like to note that that Technical Committee of the Department of Health and Environment had serious problems with the stated scope of practice of the marriage and family therapists application. Specifically, they felt that the applicants had not demonstrated the competence through their education and training to diagnose and treat nervous and mental disorders. In fact, the Technical Committee granted approval to the applicants proposal only when the applicants agreed to change their stated scope of practice to the following:

"The assessment and treatment of cognitive, affective, or behavioral problems within the context of marital and family systems."

Further, the Committee noted that "Marriage and family therapists do not have the training in the application of the DSM-III classifications of mental disorders. Rather, marriage and family therapists are trained to recognize problems (e.g. life cycle changes) that are not necessarily attributed to mental disorders". KAPP, therefore, objects to the current language in Senate Bill 257 indicating that marriage and family therapists would be competent to resolve emotional problems, modify intrapersonal dysfunction, and assess, understand, and treat mental problems.

New Section 4, Subsection a

KAPP recommends that the phrase "or a marriage and family therapist" be deleted from this subsection since a number of other already credentialed professionals within the state, and persons who have adequate training in marriage and family therapy but without a Masters or Doctoral degree in that field, are currently practicing marriage and family therapy.

New Section 5, Subsection 3

KAPP recommends that only Masters degree or Doctoral degree programs equaling or exceeding the standards established by the American Association for Marriage and Family Therapy be acceptable.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

EXECUTIVE SUMMARY OF THE FINAL REPORT

MARRIAGE AND FAMILY THERAPISTS' CREDENTIALING APPLICATION

The Secretary of Health and Environment Recommendations to the Legislature:

I concur with the technical committee that all statutory criteria are met. However, I disagree with the technical committee's conclusion that there is a need to credential marriage and family therapists in order to protect the public from the documented harm. Therefore, I recommend that the application be denied since protection of the public can be improved without credentialing the occupation.

The technical committee found that the only documented case of potential harm was due to sexual exploitation of clients by psychotherapists. Research studies show that sexual exploitation by psychotherapists do occur and that 90 percent of the clients who are sexually exploited sustained some type of damage. The technical committee noted that regulating marriage and family therapists would not reduce the problem of sexual exploitation. I agree with the findings and the conclusion made by the technical committee. However, I conclude that since regulation would not reduce the incidence of sexual exploitation, there is no need to credential marriage and family therapists. It appears that harm caused by sexual exploitation is not generated by a lack of specialized training but from ethical or moral failures. Credentialing protects the public by setting minimum standards of education and training in order to practice. Therefore, credentialing in this case would not address the issue of harm.

I recommend that the legislature consider enacting legislation similar to the Minnesota Client Protection System to offer the public protection from sexual exploitation by psychotherapists. The Minnesota Client Protection System involves: 1) Changing the criminal and civil laws to include the therapists-client sexual relationship; 2) requiring all psychotherapists to distribute a "client bill of rights" to clients prior to treatment; and 3) establishing a board of unlicensed mental health service providers. This system was specifically designed to combat unethical and immoral issues involving psychotherapists and clients. These measures offer protection to the client from sexual exploitation by making the act illegal, providing victims court recourse, educating the public about unethical acts, making available to the public information about the training and certification of unlicensed practitioners, and providing recourse to victims through board sanctions of unlicensed practitioners. The unlicensed mental health service providers board will be able to gather information about marriage and family therapists and other unlicensed mental health providers that is currently not available. This information will formalize state monitoring of the issues while providing a mechanism for determining if other possible actions such as title protection for certain occupational groups is needed.