

Approved 3 - 22 - 90
Date

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs

The meeting was called to order by Senator Edward F. Reilly, Jr. at
Chairperson

11:05 a.m./~~p.m.~~ on March 20, 1990 in room 254-E of the Capitol.

All members were present ~~except~~

Committee staff present:

Mary Torrence, Revisor of Statutes Office
Mary Galligan, Legislative Research
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

Rick Sabel, Topeka Police Department
Rep. Dale Sprague
Helen Stephens, Kansas Peace Officers Association
Steven Kearney, Kansas State Troopers Association
Rep. Artie Lucas

Hearing on: HB 2714 - concerning alcoholic liquor; amending K.S.A. 1989 Supp. 41-308a

Staff said that this bill would resolve conflicts in statutes regarding licensure of farm wineries. The House amendment is technical in nature.

A motion was made by Senator Bond and seconded by Senator Morris to amend SB 643 into HB 2714. The motion carried.

A conceptual motion was made by Senator Vidricksen and seconded by Senator Bond to amend into HB 2714 a provision that alcoholic liquor be allowed by the State Historical Society, Inc. (Attachment 1) The motion carried.

Hearing on: HB 2299 - relating to imitation firearms

Officer Rick Sabel, Topeka Police, gave testimony in support of the bill. (Attachment 2) He displayed a gun and its imitation to illustrate the difficulty in determining whether or not a person is armed.

Rep. Sprague said that the bill came about because of an imitation gun given as a gift to a family member. He said the guns speak for themselves; he realized they could put persons in peril. The bill is modeled after a bill in California. The key word is "replica," which allows collectors to have certain models. The bill is limited in scope, does not infringe on the right to bear arms. He would have no problem amending the bill to include one who uses an imitation firearm or exempting certain guns, such as bb guns.

Helen Stephens, Kansas Peace Officers Association, spoke in support of the bill. (Attachment 3) She quoted from a study mandated by the U.S. Congress; she will provide a copy for the committee.

Steven Kearney, Kansas State Troopers Association, gave testimony in support of the bill. (Attachment 4)

Discussion on: SB 129 - Requiring notification of certain persons prior to abortion

Rep. Lucas discussed a balloon of the bill. (Attachment 5)

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs,
room 254-E, Statehouse, at 11:05 a.m.~~p.m.~~ on March 20, 1990.

A motion was made by Senator Daniels and seconded by Senator Ehrlich that New Sec. 5 (b) be amended to include only the parents of the minor on whom an abortion was performed.

The minutes of the March 16 and 19 meetings were approved.

The meeting was adjourned at 12:00 noon.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

VISITORS

Date: 3-20-90

Name	Address	Organization	Wish to testify?	Bill No.	Proponent or Opponent
Jim Conant	Top.	ABC	-		
Jack Duncan	Topeka	KWSWA	maybe		
Neal Whitaker	Topeka	KBWA	No		
Matt Tavel	Topeka	AP	No		
M. Hawver	"	Cap-Journal	<u>NO</u>		
W. Ramon	Topeka	DISCUS	<u>W</u>		
Bob Wunsch	Laurence	KUMC			
Cleta Renyer	Salvella	Right to Life	no.		

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

VISITORS

Date: 3-20-90

Name	Address	Organization	Wish to testify?	Bill No.	Proponent or Opponent
G. Thomas	102 S. State	Wichita Eagle			
Rt Mey		House			
Rick Sabel	204 W. 5 th	F.O.P.	Yes	2299	Pro
STEVE KEARNEY	TOPEKA	KS STATE TRADES ASSOC.	YES	2299	Proponent
Jim Morrison	Topeka	oh kansas			
Burb Rouwert	"	KS H Workers	NO	OBSERVER 778	
Goche Van Mida	"	now			
Beth Powers	Topeka	KS Choice Alliance	NO		
Belva Ott	Wichita	Planned Parenthood of KS			
Charles Simmons	Topeka	Department of Corrections	yes	SB626	
BERNARD J. DUNN	TOPEKA, KS	PRIVATE ATTORNEY	YES	SB626	

PROPOSED BILL NO. _____

By

AN ACT concerning alcoholic liquor; relating to consumption on certain property; amending K.S.A. 1989 Supp. 41-719 and repealing the existing section.

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

Section 1. K.S.A. 1989 Supp. 41-719 is hereby amended to read as follows: 41-719. (a) No person shall drink or consume alcoholic liquor on the public streets, alleys, roads or highways or inside vehicles while on the public streets, alleys, roads or highways.

(b) No person shall drink or consume alcoholic liquor on private property except:

(1) On premises where the sale of liquor by the individual drink is authorized by the club and drinking establishment act;

(2) upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803 and amendments thereto takes place;

(3) in a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803 and amendments thereto takes place;

(4) in a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private

party and if no sale of alcoholic liquor in violation of K.S.A. 41-803 and amendments thereto takes place; or

(5) on the premises of a microbrewery or farm winery, if authorized by K.S.A. 41-308a or K.S.A. ~~1987~~ 1989 Supp. 41-308b, and amendments thereto.

(c) No person shall drink or consume alcoholic liquor on public property except:

(1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes or purposes incidental thereto.

(2) In any state owned or operated building or structure, and on the surrounding premises, which is furnished to and occupied by any state officer or employee as a residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by an airport authority created pursuant to chapter 27 of the Kansas Statutes Annotated or established by a city having a population of more than 200,000.

(4) On the state fair grounds on the day of any race held thereon pursuant to the Kansas parimutuel racing act.

(5) On the state fairgrounds, if such liquor is domestic wine or wine imported under subsection (e) of K.S.A. 41-308a and amendments thereto and is consumed only for purposes of judging competitions.

(6) In any building on the site of the state historical museum provided for by K.S.A. 76-2036 and amendments thereto, and on the surrounding premises, as authorized by rules and regulations of the state historical society.

(7) On property exempted from this subsection (c) pursuant to subsection (d), (e), (f) or (g).

(d) Any city may exempt, by ordinance, specified property, title of which is vested in such city, from the provisions of subsection (c).

(e) The board of county commissioners of any county may

exempt, by resolution, specified property, the title of which is vested in such county, from the provisions of subsection (c).

(f) The state board of regents may exempt from the provisions of subsection (c) specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(g) The board of regents of Washburn university may exempt from the provisions of subsection (c) specified property the title of which is vested in such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(h) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200 or by imprisonment for not more than six months, or both.

Sec. 2. K.S.A. 1989 Supp. 41-719 is hereby repealed.

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

TESTIMONY OF
OFFICER RICK SABEL
FRATERNAL ORDER OF POLICE
LODGE #3
MARCH 20, 1990
HOUSE BILL 2299

I am here today to testify on behalf of House Bill 2299. The Fraternal Order of Police Lodge #3 fully supports this bill. One reason we support such a bill is because of a situation that occurred approximately two and one-half years ago. This is a brief explanation of what occurred that night.

In October of 1987, in the 500 block of Grattan, I was dispatched with another officer to take a theft report from a citizen who implicated his son as the thief. An argument ensued between the complainant and officers because we would not arrest his son for the theft of some of the complainants money. We finally left the house after we explained the situation to the complainant and his son. This occurred at approximately 11:30 p.m. In approximately two hours the situation became heated with the father and son involved in the argument. We were sent by dispatch to return to the house and we were also informed that the son was armed with a gun. When we arrived at the scene the son was ranting and raving, screaming and yelling at officers as we approached the house. We also observed the subject holding a black gun in this right hand. Eventually more than 20 officers responded to the scene and a stand off continued for more than two hours. During this period of time the subject ran out the front door on numerous occasions threatening officers and waving the black gun at different officers. The subject would then run back into the house only to exit a few minutes later to scream and yell at officers and wave the gun around. Eventually, this subject exited the house waving the gun as an officer was changing positions. This officer felt extremely threatened when this subject pointed the gun at him and out of self defense fired his shotgun at the subject killing him instantly. I was the second person to reach the subject when another officer pulled the weapon from him. The weapon was a Beretta 9mm. The only problem that existed was the weapon was a plastic version of the Beretta 9mm.

The Topeka Police Department has encountered several situations like this in the past year and a half where a person easily could have been shot by officers because they brandished a realistic toy weapon. Situations like this will continue to occur as long as there are plastic guns being manufactured that closely resemble real guns and are available to the general public. Officers on the street have a split second to make a decision and react to someone pointing a gun at them. Any hesitation to react on the part of the officer could result in injury or death to the officer or the innocent bystander that we as law enforcement officers are sworn to protect.

Senate F&SA
3-20-90
Att. 2

The main concern of the Fraternal Order of Police Lodge #3 has is that there is no place in society for these types of guns. Manufacturers have the ability, capability and resources to make toys for our children that do not closely resemble the types of weapons that are killing members of our society at an increasingly alarming rate each and every year.

We feel this is a well written bill in that the availability of these realistic toy weapons will still be accessible to certain segments of our society. The general public however, will not have the accessibility to these toys that they enjoyed in the past.

The violence we all watch on television has a huge effect on our children. They are the ones we are genuinely concerned about. These programs on television also have a big effect on adults. Many people have a hard time distinguishing between fact and fiction and by restricting the accessibility of all people to these types of toys may in fact save someone's life. Possibly someone you know or care about.

Therefore, the Fraternal Order of Police Lodge #3 fully supports the passage of House Bill 2299 and we would appreciate your consideration of this matter.

KANSAS PEACE OFFICERS ASSOCIATION
January 22, 1990

House Bill No. 2299

Mr. Chairman and members of the committee:

My name is Helen Stephens, representing approximately 7000 members of the Kansas Peace Officers Association. Thank you for the opportunity to speak to you today.

We are here to support passage of HB 2299. Imitation firearms have caused needless death and/or injury in Kansas around the nation when used in circumstances by juveniles.

Imitation firearms have no place in our everyday society -- especially for children. One fear of law officer's is the innocent child coming out of nowhere pointing a firearm at a citizen or a law enforcement officer; and having that firearm mistaken for a real one. Law enforcement is trained to respond to potential danger, but when faced with a weapon pointed at you (whether in broad daylight, at dusk or dawn, or by the light of a street lamp), some imitation firearms look exactly like the real thing and the seconds available for response do not allow for hesitation. If hesitation is there, death or injury could come to an innocent bystander or the law enforcement officer. By not hesitating, the loss of or injury to an innocent child could occur.

We urge your support of House Bill 2299.

Senate F&SA
3-20-90
Att. 3

TESTIMONY
BEFORE THE
SENATE FEDERAL & STATE AFFAIRS COMMITTEE
ON
HB 2299
BY
STEVEN F. KEARNEY
OF
PETE MCGILL & ASSOCIATES
ON
MARCH 20, 1990

Senate F&SA
3-20-90
Att. 4

Chairman Reilly and Committee Members:

I am Steve Kearney with Pete McGill & Associates and we are appearing here today on behalf of the Kansas State Troopers Association in support of House Bill 2299.

The Troopers Association recognizes the dangers involved in the wide manufacture and distribution of toy or imitation firearms that so closely resemble actual functioning firearms that it makes it almost impossible to discern a real gun from an impostor.

The proliferation of these impostor firearms has created a very dangerous situation for the general public and for law enforcement officers. A decision by a law enforcement officer confronted with what appears to be a potentially lethal situation must be made in a split second whether or not to exercise deadly force. When confronted with a look alike firearm brandished by either an adult or a child, the law enforcement officer now not only has to decide whether to shoot or not shoot, but also must now decide whether or not the firearm is real. You will hear today, if you haven't already, examples of tragic incidents where both adults and children have been killed while brandishing an imitation or impostor firearm at a law enforcement officer.

It is our belief that this legislation can help to prevent these incidents from occurring in the future. Your active consideration of this legislation will be greatly appreciated. Thank you for this opportunity to testify on behalf of the Kansas State Troopers Association in support of this bill.

I would be happy to attempt to answer any question which you might have.

3/20/90

[As Amended by House Committee of the Whole]

Senate F&SA
3-20-90
Att. 5

Session of 1990

House Substitute for SENATE BILL No. 129

By Committee on Transportation

2-28

11 AN ACT requiring notification of certain persons prior to an
12 abortion performed upon a minor or upon certain disabled
13 persons; providing procedures relating thereto; providing
14 penalties for violations [concerning abortion-[minors]; requir-
15 ing, under certain circumstances, notification of certain persons
16 before performance of abortions on minors; prescribing proce-
17 dures relating thereto; [imposing an obligation to support on
18 certain grandparents;] amending K.S.A. 1989 Supp. 65-2837 and
19 repealing the existing section].

20
21 *Be it enacted by the Legislature of the State of Kansas:*

22 Section 1. (a) The legislature finds that:

23 (1) There exist compelling and important state interests in
24 protecting minors against their own immaturity; in fostering the
25 family structure and preserving it as a viable social unit; and
26 in protecting the rights of parents to rear their children;

27 (2) minors often lack the ability to make fully informed
28 choices that take into account both immediate and long range
29 consequences of their actions; that the medical, emotional, and
30 psychological consequences of abortion are serious and of in-
31 determinate duration; particularly when the patient is a minor;
32 that parents ordinarily possess information essential to a phy-
33 sician's exercise of best medical judgment concerning their
34 children; and that parents who are aware that their minor
35 daughter has had an abortion may better ensure that the minor
36 receives adequate counseling and medical attention for any
37 complications which may result; and

38 (3) parental consultation regarding abortion is desirable and
39 in the best interest of the minor.

40 (b) It is, therefore, the intent of the legislature to further
41 the interests stated above by enacting this parental notice
42 provision.

43 Sec. 2. As used in this act:

formed gave consent to the abortion.

Sec. 5. If any provision, word, phrase or clause of this act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions, words, phrases, clauses or application of this act which can be given effect without the invalid provision, word, phrase, clause or application, and to this end the provisions, words, phrases and clauses of this act are declared to be severable.

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

[New Section 1. As used in sections 1 through 5:

[(a) "Abortion" means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead embryo or fetus.

[(b) "Actual notice" means the giving of notice directly, in person or by telephone.]

[(c) "Minor" means any person under [6] years of age who is not now nor has ever been married and who has not been declared as emancipated under federal law or Kansas law.

[(d) "Parent" means a minor's natural or adoptive parent, a minor's guardian, a person standing in loco parentis to a minor, a minor's blood relative who is 21 or more years of age, a member of the clergy of any religious denomination or society which is exempt from taxation pursuant to the federal internal revenue code of 1986] or a court of competent jurisdiction if the minor is a ward of the court.

[(e) "Physician" means a person licensed to practice medicine and surgery in this state.

[New Sec. 2. [(a)] Except as otherwise provided by this act, no physician shall perform an abortion upon a minor unless [(1)] The minor, if capable of consent, has given consent thereto; and [(2)] the physician has [(A)] given actual notice to one of the minor's parents of the physician's intention to perform the abortion or unless the physician has [(B)] received a written statement or oral communication by another physician, hereinafter called the "referring physician," certifying that the referring physician has given such notice.

~~[(b) If a minor objects to notice being given her parent under this section, the physician shall inform the minor of her right to petition any district court in this state for a waiver of the notice requirement of this section pursuant to the procedures of section 3. The physician shall refer the minor to the appropriate office of the department of social and rehabilitation services for further~~

(b) "Notice" means written notice of the pending abortion delivered not less than 48 hours before such abortion in the following manner:

(1) Personal delivery to a parent at the usual place of abode by the physician or the physician's agent; or

(2) Mailing by certified mail addressed to the parent at the usual place of abode with return receipt requested and restricted delivery only to the authorized addressee, in which case time of delivery shall be deemed to have occurred at 12:01 p.m. on the next day subsequent to mailing on which regular mail delivery takes place.

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assistance.

[New Sec. 3. (a) The department of social and rehabilitation services shall assign a social worker to the minor to provide counseling and assistance in exercising the minor's right to a hearing under this act. The social worker shall inform the minor that she has the right to court-appointed counsel and, if the minor wishes to have counsel, the social worker shall contact the appropriate court to make arrangements for such counsel. Upon the minor's request, the social worker shall cause a petition to be filed on behalf of the minor pursuant to this act within five court days after the minor's request. Thereafter, all time limitations shall be calculated according to court days.

[(b) Court proceedings under this section shall be confidential[, held in the judges chambers or other private court area] and shall ensure the anonymity of the minor. The petition for waiver shall include either the initials of the minor or a pseudonym, the minor's age and the reasons why the minor seeks a waiver of notice. The minor may participate in court proceedings upon her own behalf. She may be represented by the social worker or by a court-appointed attorney.

[(c) Proceedings under this section shall be given such precedence over other pending matters as is necessary to ensure that the court may reach a decision promptly but in no case shall the court fail to rule within two days after the time of application unless the two-day limitation is extended at the request of the minor.

[(d) Notice shall be waived if the court finds that either: (1) The minor is mature and well-informed enough to make the abortion decision on her own, or (2) notification would not be in the best interests of the minor.

[(e) A court that conducts proceedings under this section shall issue written and specific factual findings and legal conclusions supporting its decision and shall order that a confidential record of the evidence be maintained. This record shall be sealed from the moment the petition is filed. The court shall also cause written notice of its denial or grant to be immediately dispatched to the minor and her social worker or court-appointed attorney.

[(f) An expedited, confidential appeal shall be available to any minor to whom the court denies a waiver of notice. A notice of appeal shall be filed within three days of an entry of judgment denying the petition. The record shall be forwarded to the court of appeals within three days of filing of the notice of appeal. A hearing before the appellate court shall be held within seven days of the filing of the appeal and an order shall be issued within two

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~~days of the hearing unless a longer time is requested by the minor.~~

~~[(g) The supreme court shall adopt such rules as necessary to ensure that proceedings under this act are handled in an expeditious and confidential manner.]~~

~~[(h) No filing fees or attorney fees shall be required of any minor who avails herself of the procedures provided by this section.]~~

Insert section 3, attached

[New Sec. 4. (a) If a physician in good faith reasonably believes that an abortion is immediately necessary to preserve the life or health of a minor, the physician may perform an abortion anywhere without first obtaining the minor's consent, if she is unable to consent for any reason, and without notification as provided by section 2.

[(b) If a parent of a minor has been notified of the minor's intention to obtain an abortion and the parent either accompanies the minor to the place where the abortion is to be performed or submits a notarized statement indicating that the parent has been notified, the notice requirement of section 2 shall not apply.

[(c) The notice requirement of section 2 shall be considered waived if any court fails to comply with the time limitations set forth in this act[, or if the person or persons who are entitled to notice have signed a written, notarized waiver of notice which is placed in the pregnant woman's medical records.]

~~[New Sec. 5. Any physician, hospital or medical facility, or agent thereof, acting in good faith shall be justified in relying on the representations of a minor or of any other person providing the information required under this act. No physician or other person who furnishes professional services related to an act authorized or required by this act and who relies upon the information furnished pursuant to this act shall be criminally or civilly liable for such reliance so long as the physician or other person acted in good faith.]~~

[Sec. 6. K.S.A. 1989 Supp. 65-2837 is hereby amended to read as follows: 65-2837. As used in K.S.A. 65-2836 and amendments thereto and in this section:

[(a) "Professional incompetency" means:

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

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

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

New Sec. 5. (a) Performance of an abortion in violation of this act is a class A misdemeanor.

(b) Performance of an abortion in violation of this act shall be grounds for a civil action by the person upon whom the abortion was performed, the father of the child who was the subject of such abortion or the grandparent of such child against the person who performed the abortion. In such action, the plaintiff may recover \$10,000 in punitive damages and treble the actual damages sustained by the plaintiff. No person shall be precluded from recovery in such action on the ground that either the plaintiff or the person upon whom the abortion was performed gave consent to the abortion.

(c) A person shall not be held liable civilly or criminally under this section if the person establishes by written evidence that the person relied upon evidence sufficient to convince a careful and prudent person that the representations of the pregnant minor regarding information necessary to comply with this act were bona fide and true or if the person attempted with reasonable diligence to deliver notice but was unable to do so.

Sec. 3. If section 2 is temporarily or permanently restrained or enjoined by judicial order, section 2 shall be enforced as though the following paragraph were incorporated as a part of that section, except that if such temporary or permanent restraining order or injunction is ever stayed or dissolved, or otherwise ceases to have effect, section 2 shall have full force and effect, without being modified by the addition of the following paragraphs which shall have no force or effect until or unless an injunction or restraining order is again in effect:

(a) If a minor elects not to allow the notification of one or both of her parents, she may petition the district court of the judicial district in which she maintains her residence for a waiver of such notification. If after an appropriate hearing the court determines that it is in the best interests of the minor, the court shall order a waiver of the notification requirement in section 2.

(b) The pregnant minor may participate in proceedings in the court on her own behalf or the court may appoint a guardian ad litem for the pregnant minor. The court shall advise the pregnant minor that she has a right to court-appointed counsel, and shall, upon request of the pregnant minor, provide her with such counsel.

(c) Proceedings in the court under this section shall be confidential and shall be given such precedence over other pending matters so that the court may reach a decision promptly and without delay so as to serve the best interests of the pregnant minor. A judge of the court who conducts proceedings under this section shall make in writing specific factual findings and legal conclusions supporting the court's decision and shall order a record of the evidence to be maintained including the court's findings and conclusions.

(d) An expedited confidential appeal shall be available to any pregnant minor denied an order of waiver of notice by the court. An order authorizing such waiver shall not be subject to

appeal. No filing fees shall be required of any such pregnant minor at either the trial or the appellate level. Access to the trial court for the purposes of such a petition or motion, and access to the appellate courts for purposes of making an appeal from denial of the same, shall be afforded such a pregnant minor 24 hours a day, seven days a week.

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- 1 **[(b) “Unprofessional conduct” means:**
2 **[(1) Solicitation of professional patronage through the use of**
3 **fraudulent or false advertisements, or profiting by the acts of those**
4 **representing themselves to be agents of the licensee.**
5 **[(2) Representing to a patient that a manifestly incurable dis-**
6 **ease, condition or injury can be permanently cured.**
7 **[(3) Assisting in the care or treatment of a patient without the**
8 **consent of the patient, the attending physician or the patient’s legal**
9 **representatives.**
10 **[(4) The use of any letters, words, or terms, as an affix, on**
11 **stationery, in advertisements, or otherwise indicating that such per-**
12 **son is entitled to practice a branch of the healing arts for which**
13 **such person is not licensed.**
14 **[(5) Performing, procuring or aiding and abetting in the per-**
15 **formance or procurement of a criminal abortion or failing to comply**
16 **with the provisions of sections 1 through 5.**
17 **[(6) Willful betrayal of confidential information.**
18 **[(7) Advertising professional superiority or the performance of**
19 **professional services in a superior manner.**
20 **[(8) Advertising to guarantee any professional service or to per-**
21 **form any operation painlessly.**
22 **[(9) Participating in any action as a staff member of a medical**
23 **care facility which is designed to exclude or which results in the**
24 **exclusion of any person licensed to practice medicine and surgery**
25 **from the medical staff of a nonprofit medical care facility licensed**
26 **in this state because of the branch of the healing arts practiced by**
27 **such person or without just cause.**
28 **[(10) Failure to effectuate the declaration of a qualified patient**
29 **as provided in subsection (a) of K.S.A. 65-28,107 and amendments**
30 **thereto.**
31 **[(11) Prescribing, ordering, dispensing, administering, selling,**
32 **supplying or giving any amphetamines or sympathomimetic amines,**
33 **except as authorized by K.S.A. 65-2837a and amendments thereto.**
34 **[(12) Conduct likely to deceive, defraud or harm the public.**
35 **[(13) Making a false or misleading statement regarding the li-**
36 **censee’s skill or the efficacy or value of the drug, treatment or**
37 **remedy prescribed by the licensee or at the licensee’s direction in**
38 **the treatment of any disease or other condition of the body or**
39 **mind.**
40 **[(14) Aiding or abetting the practice of the healing arts by an**
41 **unlicensed, incompetent or impaired person.**
42 **[(15) Allowing another person or organization to use the licen-**
43 **see’s license to practice the healing arts.**

1 [(16) Commission of any act of sexual abuse, misconduct or ex-
2 ploitation related to the licensee's professional practice.

3 [(17) The use of any false, fraudulent or deceptive statement in
4 any document connected with the practice of the healing arts.

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

6 [(19) Directly or indirectly giving or receiving any fee, com-
7 mission, rebate or other compensation for professional services not
8 actually and personally rendered, other than through the legal func-
9 tioning of lawful professional partnerships, corporations or
10 associations.

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

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

16 [(22) Charging an excessive fee for services rendered.

17 [(23) Prescribing, dispensing, administering, distributing a pre-
18 scription drug or substance, including a controlled substance, in an
19 excessive, improper or inappropriate manner or quantity or not in
20 the course of the licensee's professional practice.

21 [(24) Repeated failure to practice healing arts with that level of
22 care, skill and treatment which is recognized by a reasonably pru-
23 dent similar practitioner as being acceptable under similar condi-
24 tions and circumstances.

25 [(25) Failure to keep written medical records which describe the
26 services rendered to the patient, including patient histories, per-
27 tinent findings, examination results and test results.

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

31 [(27) Using experimental forms of therapy without proper in-
32 formed patient consent, without conforming to generally accepted
33 criteria or standard protocols, without keeping detailed legible rec-
34 ords or without having periodic analysis of the study and results
35 reviewed by a committee or peers.

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

42 [(c) "False advertisement" means any advertisement which is
43 false, misleading or deceptive in a material respect. In determining

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1 whether any advertisement is misleading, there shall be taken into
2 account not only representations made or suggested by statement,
3 word, design, device, sound or any combination thereof, but also
4 the extent to which the advertisement fails to reveal facts material
5 in the light of such representations made.

6 [(d) "Advertisement" means all representations disseminated in
7 any manner or by any means, for the purpose of inducing, or which
8 are likely to induce, directly or indirectly, the purchase of profes-
9 sional services.

10 [Sec. 7. (a) The grandparent of any child of a dependent person
11 under 18 years of age shall be legally liable to support such child
12 as long as the dependent person is under 18 years of age, to the
13 extent that the grandparent is able to provide such support and
14 the dependent person is unable to do so. Each grandparent shall
15 be equally liable for such child's support. The liability imposed by
16 this subsection does not supplant the liability of either parent for
17 a child's support.

18 [(b) The district court, in any proceeding pursuant to the Kansas
19 parentage act or in an independent action for support, may order
20 one or more grandparents of a child to pay past or future support
21 for which the grandparents are liable pursuant to subsection (a) if
22 the parents are unable wholly to support the child. Such support
23 shall be ordered only to the extent that the respective grandparent
24 is able to contribute to support of the child, taking into consideration
25 the grandparent's future maintenance and making reasonable al-
26 lowance for protection of the property and investments from which
27 the grandparent derives a living and care and protection in old
28 age. The order shall specify the amount of support to be paid by
29 each grandparent and the intervals at which support shall be paid.
30 If the grandparents are unable wholly to maintain the child but
31 are able to contribute to the child's support, the court shall pre-
32 scribe the proportion each shall contribute according to ability to
33 pay. The order shall provide for payment to be made in the same
34 manner as any other court-ordered support payment.

35 [(c) A paternal grandparent of a child may be required to pay
36 support pursuant to this section only if paternity of the child has
37 been determined pursuant to the Kansas parentage act. However,
38 once paternity is so determined, liability extends to support prior
39 to the determination of paternity.

40 [New Sec. 7-[8]. If any provisions of this act or the application
41 thereof to any person or circumstances is held invalid, the invalidity
42 does not affect other provisions or applications of this act which
43 can be given effect without the invalid provisions or application.

1 **To this end the provisions of this act are severable.**
2 **[Sec. 8-[9]. K.S.A. 1989 Supp. 65-2837 is hereby repealed.**
3 **[Sec. 9-[10]. This act shall take effect and be in force from and**
4 **after its publication in the statute book.]**

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