

Approved _____

Date

2/21/90

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

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

10:00 a.m./~~p.m.~~ on February 14, 1990 in room 526 of the Capitol.

All members were present except:

Committee staff present:

Norman Furse, Revisor's Office
Bill Wolff, Legislative Research
Sandra Nash, Committee Secretary

Conferees appearing before the committee:

The Chairman opened the meeting calling for approval of the minutes of February 8, 1990. Senator Hayden made the motion to approve the minutes. Senator Walker seconded the motion. The motion passed.

The Chairman called the sponsor of S.B. 622, Senator James Francisco. Senator Francisco introduced Jeff Harsh of Oakley. He and his wife are in the hotel/motel business and Mr. Harsh is a graduate of a university and he's taking some continuing education courses in naturopathy and he was interested in trying to find out what he could do to practice naturopathy in Kansas legally. Senator Francisco and Mr. Harsh went to the Board of Healing Arts, Richard Gannon. Mr. Gannon's comment was that we would need to change the statute that was enacted in 1982. (Attachment #1) On the back page of the attachment, a new section 6. What S.B. 622 does is amend K.S.A. 65-2872a which is that new section 6, by striking language "January 1, 1982", and inserting "December 1, 1986." If the bill passes in its present form, it would allow Mr. Harsh to practice as a naturopath in our state and that's the purpose of this legislation.

Senator Francisco said he was on the Public Health and Welfare committee at the time the bill was passed. Back then there was a big concern about credentialing of health care providers. And what this committee decided to do was rather than require credentialing, we decided to draw a line and say "no more." Those that are practicing and in existence on the date, January 1, 1982, be allowed to continue to practice. The decision was made not to allow any others to come in and practice in Kansas. Then we wouldn't have to deal with the credentialing.

The Chairman called Jeffery Harsh, of Oakley, Mr. Harsh stated that he and a psychologist, Dr. Hayhurst, have done research on 2 4 D spraying and a complaint was filed against him and investigated by the Healing Arts Board and was exorated by them. Mr. Harsh stated he has the educational requirement, and the only factor to prevent him practicing was the deadline date for grandfathering in of January 1, 1982. (Attachment 2) He requests that the date be changed to December 1, 1986.

Senator Ehrlich ask staff if the people that are practicing at the present time is eight.

Staff Furse said that was the estimate at that time.

Senator Ehrlich asked if they have to register with the Board of Healing Arts.

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room 526, Statehouse, at 10:00 a.m./~~p.m.~~ on February 14, 1990.

Staff Furse said that they are not registered. There is no mechanism for registering naturopaths.

Senator Ehrlich asked who keeps track of how many we have in Kansas?

Staff Furse said as far as he knew, no one does.

Chairman called Jerry Slaughter of the Kansas Medical Association as an opponent to S.B. 622.

Mr. Slaughter pointed out that the original bill was intended for a one time enactment to allow a number of individuals, and the number of 12 at the time, to grandfather in. Otherwise, every other provider of medical services has to go through the credentialing and these should too. If naturopaths want to be recognized and practice in Kansas, they should request a bill to set up a mechanism for credentialing. (Attachment #3)

The Chairman called for the proponent to S.B. 639, George Vega, Special Assistant to the Commissioner of Mental Health and Retardation Services, Al Nemec.

Mr. Vega said S.B. 639 was requested by S.R.S. to give legal support to Winfield State Hospital of what we are already practicing, and that is administering medications at the mental retardation institutions to the patients by medication aides. This would cover the activities the patients have off-ground and the patients on the wards. The current statute covering medication aides only includes long-term care units or adult care homes, not mental retardation hospitals. (Attachment #4) The mental retardation hospitals are licensed by the Kansas Department of Health and Environment as "specialty hospitals." At Winfield State Hospital there is a nurse shortage and to utilize staff flexibility, they have chosen to use medication aides to administer drugs to the patients.

Senator Hayden asked what is it about the medication for the mentally retarded that would have set it aside so much and have been so much different than what we have allowed in nursing homes?

Mr. Vega said it was a higher use of psychotropic medications that what would be required in a nursing home.

The Chairman called opponent to S.B. 639, Pat Johnson, the Acting Executive Administrator to the Kansas State Board of Nursing.

Ms. Johnson said the Board of Nursing was against S.B. 639 because it feels that the bill erodes the Nurse Practice Act and allows minimally educated persons to assume more and more responsibility in the nursing care of the elderly, home bound, and now mentally retarded. The nurse, at the time of administering medication, also is assessing the patient to see if there is a change that needs to be brought to the attention of the physician. (Attachment #5)

Senator Burke asked, if her opinion were the people at Winfield State Hospital receiving appropriate medical care.

Ms. Johnson said that Mary Dunbar is one of their people and she works at Winfield as an LMHT and she says there has been a variety of changes at the institution but they are receiving adequate care.

Senator Burke said if we could separate psychotropic drug administration from the regular drugs.

Ms. Johnson said those drugs are changing and in terms of the level of

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interaction of the nursing staff, they are serving as the buffer between the patient and the doctor. What they observe as going on with the patient is what goes back to the doctor. If we were talking of only the off-site visits for further activities, but this opens it up so that medication aides can give medications anytime.

Senator Burke asked how accurate in administering the medicine would it be necessary for a physician or an R.N. to observe a patient's reaction in terms of whether or not it is at the appropriate level.

Ms. Johnson said it depends on the medication. It could be an immediate reaction. But many of these are looking at long term affects and possible over-doses.

Senator Burke asked what kind of medicine would react immediately?

Ms. Johnson said she is not familiar with the drugs used at Winfield.

Senator Burke said that medicine that will produce an affect over a period of time is more sense and could be done under the current procedure and be observed by the nurse.

Ms. Johnson said the physician will not see that patient very often but the nurse would on an on-going bases. She didn't know what the staff ratios would be to say how often that person is going to be able to do that. But by having continual contact with the patient, at least in terms of giving them medications they can monitor the patient more closely.

Senator Burke asked how often the patient would receive medication?

The Superintendent of Winfield State Hospital said the majority of the patients receive medication at least once a day.

Senator Burke asked if they were currently being observed every time medication was given by an R.N.?

The Superintendent said presently Winfield is using medication aides to administer drugs.

Senator Burke asked how often the patient is observed by an R.N.

The Superintendent replied that the majority of the patients are either casually or in direct patient contact each day.

Ms. Johnson asked the Superintendent what the ratio to R.N. was to patients in Winfield.

The Superintendent replied Winfield has 85 R.N.'s and LPN to 390 patients. All together there are only 40 R.N.'s.

Senator Ehrlich asked if the medication aide would give injections or intravenous treatment.

Ms. Johnson said no.

The Chairman asked if anyone else would like to address S.B. 622.

Joseph Kroll, Director of the Bureau of Adult and Child Care, Kansas Department of Health and Environment requested to address S.B.622 as a proponent.

He said the use of non-licensed personnel to supplement staff to give medication in certain environments, nursing homes, long-term care units in hospitals has been recognized for some time. As

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an important supplement to staffing in these facilities. In an ideal world if we had enough nurses, it would be preferable for only licensed nurses to give medications in these environments. There simply aren't enough nurses. To deny the state institutions the same opportunities to use medical aides that adult care homes that are providing MR care and long-term care units simply doesn't make any sense from a practical viewpoint. If you deny it in institutions, I think it should be denied in other environments as well because there's no distinction that's pertinent between the state institutions, the adult care and the long-term care units.

The standards that KDHE staff use in evaluating the state institution are identical to the standards we use to evaluate adult care homes that are providing MR care and very similar to long-term care standards. So there really is no practical reason to deny the state institution the same access to this staff. The medication aide becomes so recognized after completing at least 60 hours of training in addition to the base nurse aide course of 90 hours. We worked with Winfield State Hospital in 1988 or accommodate their base nurse aide training, to recognize it or certify it for state purposes. And parts of it is that their certified nurse aides can take the medication course. And it his understanding that back in 1988, the Board of Nursing did indicate to Winfield State Hospital personnel that they had no objection to medication aides passing medication to the patients in the institutions.

Staff Furse said the current law exempts out patients in hospital base long-term care units. How does the department determine whether this hospital has a long-term care unit. Are they licensed separately?

Mr. Kroll said as Mr. Vega indicated in his testimony, the only place for long-term care units is in the requirements that we have for long-term care units. It is a decision that's made based upon and compliance with those standards. When the hospital's make application, they indicate how many long-term care beds they have. And the state institutions all fall into that category. We don't have any separate license category tho. That's something that we're going to address when we revise the hospital regulations this year and we're going to propose a very specific definite for long-term care unit. It's a definition now that is operationalized, it's not defined. The hospital, itself, makes the decision as to where they have a long-term care unit and then our expectation is that they comply with a separate set of standards and hospital regulations. The problem with the state institutions, really don't have a home under the law. They're not adult care homes, they're specifically excluded. They're certainly not general hospitals. So we considered them specialty hospitals. They standards they comply with tho, are essentially federal standards for MR facilities.

Mr. Furse asked if you then recognize their long-term care units or the whole institution as a long-term care unit.

Mr. Kroll said KDHE looks at them as a long-term care unit.

The Chairman asked for the wishes on S.B. 639. Senator Hayden made a motion to pass the bill favorably. Senator Salisbury seconded the motion. The motion carried. The bill will be carried by Senator Hayden.

The Committee adjourned at 10:40a.m. The next meeting is February 15, at 10:00a.m. in Room 526.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2/14/90

(PLEASE PRINT)

NAME AND ADDRESS

ORGANIZATION

Tony Lybarger	Winfield State Hosp.
George D. Vega	SRS MHRS
Jack Keene	KOME
Terry Davis	MHRS
Pat Johnson	Board of Nursing
Bella Parnes	Ks. Choice Alliance
George Martin	Johnson City, Ks.
Harold Kienm	KAOM
John Slaughter	TOBACCO
John A. A.	Asst. Dir.
KEITH R. LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Ken Baker	Assn of Prof. Psychologists
Carl Schmittbauer	Kansas Dental Assn
Luci. Statten Reilly	Ld. Ks. Visitor
M. Hauer	Can-Jamaica

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point of beginning and containing 48.56 acres, more or less, except that part of lot 14 described as follows: Beginning at a point on the east side of lot 14, section 31, township 9 south, range 8 east of the sixth principal meridian, said point being 1450.0 feet north of southeast corner of lot 17 in said section 31; thence west 430.4 feet; thence north 640.0 feet; thence east 177.2 feet to the west right-of-way line of Kansas highway No. K-13; thence south 22°41' east along said highway right-of-way line 657.3 feet to the east side of said lot 14; thence south 33.3 feet to point of beginning and containing 4.56 acres, more or less.

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

Approved April 21, 1982.

1982

CHAPTER 378

House Bill No. 3144

AN ACT concerning public health; relating to providing allopathic and osteopathic medical care services in Kansas; concerning the providing of health care services by naturopaths; authorizing the state board of regents to award scholarships to osteopathic medical students and requiring certain agreements in connection therewith; prescribing certain conditions and limitations; relating to practice and repayment obligations of certain allopathic medical students; amending K.S.A. 1981 Supp. 76-375 and repealing the existing section.

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

New Section 1. (a) Within the limits of appropriations therefor and in accordance with this section, the state board of regents may award scholarships in accordance with the provisions of this section to Kansas residents who are undergraduate students enrolled in or admitted to accredited schools of osteopathic medicine in a course of instruction leading to the degree of doctor of osteopathy who enter into a written agreement with the state board of regents in accordance with section 2.

(b) Scholarships awarded under this section shall be in effect during the period of time provided in subsection (c) and shall provide to the person receiving the scholarship the payment of all tuition and required fees for one year up to a maximum of \$10,000.

(c) Scholarships awarded under this section shall be awarded on an annual basis and shall be in effect for one year unless otherwise terminated before such period of time. A Kansas resident who is an undergraduate student enrolled in or admitted to an accredited school of osteopathic medicine in a course of instruction leading to the degree of doctor of osteopathy may be awarded a separate scholarship for each separate year the student

SPH & W
Attachment #1
2/14/90

enters into a written agreement with the state board of regents under section 2, up to a maximum of four years. For each separate year a student is awarded a scholarship under this section, the student shall engage in the full-time practice of medicine and surgery in Kansas for a period of 12 months unless such obligation is otherwise satisfied as provided in section 4.

(d) The state board of regents shall not award more than 15 scholarships in any year to persons who have not previously been awarded a scholarship under this section and, in any case, the board shall not award more than 60 scholarships under this section in any year. In selecting Kansas residents to be awarded scholarships under this section, the board shall first consider students commencing their first year of instruction at accredited schools of osteopathic medicine and thereafter shall consider students in later years of instruction.

New Sec. 2. An agreement entered into by the state board of regents and a Kansas resident who is an undergraduate student enrolled in or admitted to an accredited school of osteopathic medicine in a course of instruction leading to the degree of doctor of osteopathy for the awarding of a scholarship under section 1 shall require that the person receiving the scholarship:

(a) Complete the required course of instruction and receive the degree of doctor of osteopathy;

(b) apply for and obtain a license to practice medicine and surgery in Kansas;

(c) engage in the full-time practice of medicine and surgery for a period of 12 months in Kansas;

(d) commence such full-time practice of medicine and surgery within nine months after licensure or within nine months after completion of a residency program and licensure, whichever is later, and continue such full-time practice in Kansas for a consecutive period of months equal to the total number of months required under the agreement;

(e) agree that the service commitment for each agreement entered into under this section is in addition to the service commitment contained in any other agreement which has been or may be entered into under this section for the purpose of obtaining scholarship aid;

(f) maintain records and make reports to the state board of regents to document the satisfaction of the obligation under such agreement to engage in the full-time practice of medicine and surgery in Kansas and to continue such full-time practice for a consecutive period of months equal to the total number of months required under the agreement; and

(g) upon failure to satisfy an agreement to engage in the full-time practice of medicine and surgery in Kansas for the

required period of time under any such agreement, the person receiving a scholarship under section 1 shall repay amounts to the state board of regents as provided in section 3.

New Sec. 3. (a) Except as otherwise provided in section 4, upon the failure of any person to satisfy the obligation to engage in the full-time practice of medicine and surgery within the state of Kansas for the required period of time under any agreement entered into pursuant to sections 1 and 2, such person shall repay to the state board of regents an amount equal to the total of (1) the amount of money received by such person pursuant to such agreement plus (2) annual interest at a rate of 15% from the date such money was received.

(b) Each person required to repay any amount under this section shall repay an amount totaling the entire amount to be repaid under all such agreements for which such obligations are not satisfied, including all amounts of interest at the rate prescribed. Except as otherwise provided in this section, such repayment shall be in installment payments and each such installment shall be not less than the amount equal to $\frac{1}{5}$ of the total amount which would be required to be paid if repaid in five equal annual installments.

(c) All installment payments under this section shall commence six months after the date of the action or circumstance that causes the failure of the person to satisfy the obligations of such agreements, as determined by the state board of regents based upon the circumstances of each individual case. If an installment payment becomes 91 days overdue, the entire amount outstanding shall become immediately due and payable, including all amounts of interest at the rate prescribed.

(d) The total repayment obligation imposed under all agreements entered into under section 2 may be satisfied at any time prior to graduation from the accredited school of osteopathic medicine by making a single lump sum payment equal to the total of (1) the entire amount to be repaid under all such agreements upon failure to satisfy the obligations under such agreements to practice in Kansas, plus (2) all amounts of interest thereon at the rate prescribed to the date of payment.

New Sec. 4. (a) An obligation to engage in the practice of medicine and surgery in accordance with an agreement under section 2 shall be postponed: (1) During any required period of active military service; (2) during any period of service as a part of volunteers in service to America (VISTA); (3) during any period of service in the peace corps; (4) during any period of service commitment to the United States public health service; (5) during any period of religious missionary work conducted by an organization exempt from tax under subsection (c) of section 501 of the

internal revenue code of 1954, as amended; (6) during the period of time the person obligated is engaged solely in the teaching of medicine; (7) during the period of time the person obligated is engaged solely in medical research; or (8) during any period of temporary medical disability during which the person obligated is unable because of such medical disability to practice medicine and surgery. Except for clause (8) of this subsection (a), an obligation to engage in the practice of medicine and surgery in accordance with an agreement under section 2 shall not be postponed more than five years from the time the practice of medicine and surgery was to have been commenced under any such agreement. An obligation to engage in the practice of medicine and surgery in accordance with an agreement under section 2 shall be postponed under clause (8) of this subsection (a) during the period of time the medical disability exists.

(b) An obligation to engage in the practice of medicine and surgery in accordance with an agreement under section 2 shall be satisfied: (1) if the obligation to engage in the practice of medicine and surgery in accordance with an agreement under section 2 has been completed; (2) if the person obligated dies; (3) if, because of permanent physical disability, the person obligated is unable to practice medicine and surgery; (4) if the person obligated fails to satisfy the requirements for a degree of doctor of osteopathy after such person has made their best efforts to obtain such degree; or (5) if the person obligated fails to satisfy all requirements for a permanent license to practice medicine and surgery in Kansas or any other jurisdiction or has been denied a license after such person has applied for a license and has made their best efforts to obtain a license.

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Sec. 5. K.S.A. 1981 Supp. 76-375 is hereby amended to read as follows: 76-375. (a) On or before December 31 in each year, the secretary of health and environment shall prepare a list of the areas of this state which the secretary determines to be critically medically underserved areas by specialty and the areas of this state which the secretary determines to be medically underserved areas by specialty. In preparing such a list the secretary of health and environment shall consult with representatives of the university of Kansas school of medicine and the Kansas medical society and the secretary shall consult with representatives of the state board of healing arts, any health systems agency located in whole or in part within the state and the statewide health coordinating council. All medical care facilities or institutions operated by the state of Kansas, other than the university of Kansas medical center, *and all medical clinics which are located in Kansas cities, other than Kansas City, and which are operated by professional corporations that are affiliated by contract with the university of*

Kansas medical center are qualified for service in both service commitment area I and service commitment area II without being determined medically underserved areas, *except that such medical clinics shall not qualify for such service by more than 12 persons at any one time.* Every such list shall note that all medical care facilities or institutions operated by the state of Kansas qualify for such service commitments, in addition to listing those areas determined to be critically medically underserved or medically underserved.

(b) A service commitment area shall be designated as a service commitment area I or a service commitment area II. Service commitment area I shall be any area determined by the secretary of health and environment under subsection (a) to be, for purposes of all agreements entered into under K.S.A. 1981 Supp. 76-374 with students who first entered into any such agreement prior to January 1, 1982, a medically underserved area and, for purposes of all agreements entered into under K.S.A. 1981 Supp. 76-374 and amendments thereto with students who first entered into any such agreement after December 31, 1981, any area determined by the secretary under subsection (a) to be a critically medically underserved area. Service commitment area II shall be, for purposes of all agreements entered into under K.S.A. 1981 Supp. 76-374 with students who first entered into any such agreement prior to January 1, 1982, the entire state and, for purposes of all agreements entered into under K.S.A. 1981 Supp. 76-374 and amendments thereto with students who first entered into any such agreement after December 31, 1981, any area determined by the secretary to be a medically underserved area.

(c) In selecting a service commitment area I or II, whichever is applicable, prior to the commencement of the full-time practice of medicine and surgery pursuant to all agreements entered into under K.S.A. 1981 Supp. 76-374 requiring service for a period of time in a service commitment area I or II, whichever is applicable, the person so selecting shall select such area from among those areas appearing on the list of areas prepared by the secretary of health and environment under this section. The service commitment area selected shall have appeared on any such list not more than 30 months prior to the commencement of such full-time practice of medicine and surgery by the person selecting such service commitment area. Upon the selection of such service commitment area, the person so selecting shall inform the university of Kansas school of medicine and the secretary of health and environment of the area selected.

(d) A person serving in a service commitment area I or II, whichever is applicable, pursuant to any agreement under this act may serve all or part of any commitment in the service commit-

ment area initially selected by such person. If such person moves from one service commitment area I or II to another service commitment area I or II, as applicable, such person shall notify the university of Kansas school of medicine and the secretary of health and environment of such person's change of service commitment area. Service in any such service commitment area I or II, as applicable, selected from the appropriate lists of service commitment areas, shall be deemed to be continuous for the purpose of satisfying any agreement entered into under this act. Any service commitment area I or II, as applicable, selected after the initially selected service commitment area I or II shall have appeared on a service commitment area I list or on a service commitment area II list, as applicable, which shall have been prepared by the secretary of health and environment not more than 12 months prior to the move by such person from one service commitment area I or II to another service commitment area I or II, as applicable.

(e) In connection with the determination of critically medically underserved areas and medically underserved areas under this section, the secretary of health and environment shall assess annually the need in the state as a whole for medical services provided by persons engaged in the practice of medicine and surgery and shall report thereon annually to the legislature. Each report shall include any recommendations for needed legislation, including any recommended amendments to this act, which relate to the need for such medical services in the various areas of this state.

New Sec. 6. Any naturopath who is a graduate of a nationally recognized naturopathic college as approved by the state naturopath association and practicing in the state of Kansas as of January 1, 1982, shall be permitted to practice in Kansas without approval by the board of healing arts. No naturopath shall be permitted to practice surgery, obstetrics or write prescriptions for prescription drugs.

Sec. 7. K.S.A. 1981 Supp. 76-375 is hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 10, 1982.

1-4

AN ACT concerning
relating to the
bonded indebtedness
amending K.S.A.

Be it enacted

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I want to thank you for allowing Senate Bill 622 to be introduced at this session. Thank you, Senator Jim Francisco, for being so gracious as to advance this bill. Thank you, Mr. Chairman, and members of this committee, for being here and weighing the merits of this bill.

Last night my wife received a phone call from Dr. Richard Boyer in Iowa who had heard of our research and needed some medical information for a patient who wanted to be treated naturally. Since we are not protected by the Naturopathic Bill of 1982, my wife had to be very careful with her semantics in not diagnosing or treating, lest we could be charged with practicing medicine illegally, if indeed the phone call was being recorded.

Back in 1987, Dr. Don Hayhurst, a psychologist and naturopath, and my wife and I were convinced that 2 4 D, a widely sprayed herbicide, was a factor in the chronic degenerative diseases in northwest Kansas. In order to prove our theory, we wanted to run a series of tests which would include two full blood tests; one before 2 4 D spraying and one after 2 4 D spraying, at our expense. We needed willing people who knew that 2 4 D spraying was going to be in their area. So we advertised in the local newspapers. Later I also contacted all the spray pilots, hoping to discover where they would be spraying 2 4 D next. My aim was to personally contact all families within a mile's radius of the 2 4 D spraying, and to offer them free blood tests before and after the 2 4 D spraying.

SPHW
Attachment #2
2/14/90

Because of our interest in 2 4 D, some Mennonites found that they did not have to travel two hundred miles to visit the nearest Naturopath. They came to us for advice and health care. I spent at least forty hours with one such Mennoite family, the Carl Unruhs. My services to them were without charge, and I gave them whatever supplements they needed at my cost. Sometimes they chose to give a donation. I did it this way because I did not want to be illegally practicing medicine for a profit. Nevertheless, I was visited by one of the agents of the Healing Arts Board who had received a complaint from Colby Community College Medical Department concerning my relation with Carl Unruh. The matter was put on hold when the inquirers realized the error in the complaint.

If I were a State-recognized Naturopath, I would not have any problem with the State and our research would not be inhibited for fear of breaking the law. My educational background is more than adequate to practice Naturopathy according to 1982 House Bill #3144. The only factor keeping us from practicing Naturopathy legally in the State of Kansas is the cutoff date, January 1, 1982. With the enactment of Senate Bill #622, it will only change the cutoff dated to December 1, 1986.

Many researchers believe that the 1990's will see flu epidemics similar to 1918. We want to be able to do research

and find some inexpensive natural answers, and do it legally. Since we have motels, we have an income to subsidize our work in looking for some timely answers for our state, our country and our grandchildren. Being legally able to practice as a Naturopath in the State of Kansas will afford us the edge and the credibility to proceed more effectively.

Thank you for considering this bill.

Jeffrey Harsh

HCR #1, Box 117E

Oakley, Ks. 67748

913-672-3428



KANSAS MEDICAL SOCIETY

1300 Topeka Avenue • Topeka, Kansas 66612 • (913) 235-2383
Kansas WATS 800-332-0156 FAX 913-235-5114

February 14, 1990

TO: Senate Public Health and Welfare Committee

FROM: Jerry Slaughter
Executive Director

SUBJECT: SB 622; Concerning Naturopaths

The Kansas Medical Society is opposed to SB 622. This bill, by changing one date, would presumably allow just one naturopath who was not practicing in the state at the time the original law was enacted to set up a practice of naturopathy. However, there may be other individuals who would inadvertently qualify with this relaxation of the "grandfather clause" which was enacted in 1982.

The original law was controversial in its own right, in that no where else in the statutes does the Legislature grant to a private association the authority to approve an educational institution. When the original law was enacted, it was stated that an annual report of naturopaths would be made so that the Legislature would know who and where these practices existed.

As we stated when the original law was enacted, it is offensive to every other licensed professional in the state to have the Legislature grant basically an unregulated group of individuals the ability to offer their services to the public without any oversight, any standards, any public accountability, etc. The original bill was meant to grandfather in those naturopaths who were currently in practice, and not to authorize any additional practices from that point on. At this point to open this statute up again and extend it by four years is inappropriate, unprecedented and not in the public's interest.

We might ask if the naturopath that is requesting this change has been violating the law since 1986, and if so, why has nothing been done?

In a time when the public and elected officials demand greater accountability and standards of practice of all regulated professions, it is not the time to grandfather in other unregulated practitioners when there is absolutely no oversight by the state whatsoever. We oppose this bill and urge you to report it adversely. Thank you for the opportunity to present these comments.

JS:nb

*SPH & W
Attachment #3
2/14/90*

Department of Social and Rehabilitation Services

Testimony Before

The Senate Committee on Public Health and Welfare

Regarding

Senate Bill No. 639

10:00 A.M. on February 14, 1990

In Room 526-S of the Capitol Building

George D. Vega
Special Assistant to the Commissioner
Telephone Number: 296-3471

Presented on behalf of:

Al Nemec, Commissioner
Mental Health and Retardation Services
Telephone Number: 296-3773

*SPH & W
Attachment #4
2/14/90*

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Mental Health and Retardation Services

TESTIMONY

Senate Bill No. 639

Title: Senate Bill No. 639, an act concerning administration of medications in institutions for mentally retarded persons; amending K.S.A. 1989 Supp. 65-1124 and repealing the existing section.

Purpose: SB 639 clarifies that certified direct care staff, or medication aides, may be utilized in state operated institutions for the mentally retarded.

The Kansas Department of Social and Rehabilitation Services (SRS) supports SB 639.

Background: As institutions for the mentally retarded provide more individualized care for clients, providing more off-grounds activities in smaller groupings, resources have become stretched beyond budgeted limits, making the scheduling of client activities difficult or impossible because of the lack of enough registered nurses (RNs) or licensed practical nurses (LPNs). In the past, when clients were away from campus for more than a short period of time, RNs or LPNs went along on the activity in order to have a licensed staff person available to pass medications at the correct time. Improved active treatment programming for clients has stretched licensed staff too much. Additional activities for clients will only increase while at the same time stretch resources further, so managers at Winfield

State Hospital and Training Center (WSH&TC) have turned to Certified Medication Aides (CMAs) to provide additional flexibility in staffing at a lower cost.

In addition to the cost of RNs and LPNs compared to CMAs, another compelling reason to use CMAs is the fact that we can produce them in large numbers through our own training programs. RNs and LPNs are unavailable in some areas of the state, and WSH&TC has experienced particular difficulty in recruiting nurses.

K.S.A. 1988 Supp. 65-1124 (i) permits CMAs as an exception under the nursing licensing statute. This exception applies only to hospital-based, long-term care units or adult care homes. This exception is allowed because the CMAs, or med aides, can be closely supervised and monitored to ensure the safety of clients. Generally, the CMA dispenses medication to those individuals who have the same prescription(s) for long periods of time but who are unable to self-administer their own medication. This kind of situation is typical of most clients in SRS institutions for the mentally retarded.

We have, however, been uncertain whether or not the use of CMAs is permitted in our institutions. For most purposes our mental retardation (MR) institutions are considered intermediate care facilities for the mentally retarded (ICFs/MR), a type of "adult care home". While the nursing practices statute allows the use

of med aides in adult care homes, K.S.A. 39-923(b) provides that the term "adult care home" shall not include institutions operated by the state.

That provision probably exists to remove the state institutions operated by SRS from the licensing process for adult care homes administered by SRS. Instead, our MR institutions are licensed by the Kansas Department of Health and Environment (KDHE) as "specialty hospitals". While the Nurse Practices Act also exempts "hospital based, long-term care units", that term does not seem to be defined, except within the context of what such a unit is required to provide its patients under KDHE Regulations (Kansas Administrative Regulations 28-34-29a).

In order to maintain certification in the face of nurse shortages and the need to gain staffing flexibility, we have chosen at WSH&TC to use medication aides because our state MR institutions are not specifically excluded from using medication aides.

Effect of Passage: SB 639 gives legal support to current practice at WSH&TC and allows Parsons State Hospital and Training Center and Kansas Neurological Institute additional flexibility to use medication aides should they choose to do so. Fiscal impact on SRS is none or favorable to the extent CMAs can be employed at lower costs in some positions that would otherwise necessarily be filled with RNs or LPNs.

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Recommendation: Pass SB 639 which amends Kansas Statutes Annotated 1988 Supp. 65-1124(i) by adding "including state operated institutions for the mentally retarded" after the phrase "adult care homes or to patients in hospital-based long-term units".

Kansas State Board of Nursing

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

FROM: Patsy L. Johnson, R.N., M.N.
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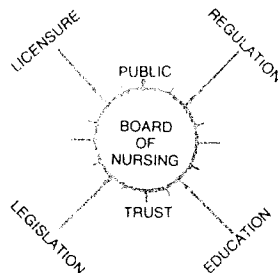
RE: SB 639

DATE: February 13, 1990

Thank you Mr. Chairman for the opportunity to comment on SB 639. The Board have asked me to express disapproval of SB 639 which allows the administration of medications to patients in hospital-based long term care units, including state operated institutions for the mentally retarded, by medication aides.

Although the Board wishes to be futuristic in its approaches to nursing, they cannot continue to support the continued erosion of the Nurse Practice Act which allows minimally educated persons to assume more and more responsibility in the nursing care of the elderly, home bound, and now mentally retarded.

Will licensed professional nurses, registered nurses, licensed practical nurses and licensed mental health technicians become the overseer of nursing care with little direct care being given by these practitioners? With each dose of medication, a contact is made with that patient. With that contact is a professional observation with further assessment as needed. The medication aide just does not have the skills to go beyond and utilize that interaction at a higher level. Also, pharmacology is constantly changing and becoming more complex. Rather than diluting health care with less educated persons, we need to be insisting on at least maintaining present status if not improving it.



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Non licensed persons provide certain nursing services to school children and to those in need of in-home care. Those procedures are often taught to unlicensed persons, specifically family members. However, expansion of medication administration in state operated institutions for the mentally retarded to medication aides is not in the same vein.

Although I have known some aides who provided excellent patient care, the level of education limits the evolution and maintenance of an on-going nursing care plan. It is understandable that health care dollars are shrinking and the need to cut budgets a never ending problem; however, safety should not be forgotten. Diluting professional care again and again leaves a void that someone, sometime must fill.

In conclusion, the Board is against SB 639. The Nurse Practice Act sets a standard of care for all of us, the old, the young, the mentally and physically handicapped, and even for many of us who just fit in the middle. Let's not lower it for a few, especially those who cannot speak out against it.

Thank you Mr. Chairman. I would be happy to respond to questions.

PLJ:bph