Approved 3/27/90
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

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

10:00 a.m./~~p~~x~~x~~ on March 22, 1990 in room 526S of the Capitol.

All members were present except:

Committee staff present:
Bill Wolff, Legislataive Research
Norman Furse, Revisor's Office
Sandra Nash, Committee Secretary

Conferees appearing before the committee:

The Chairman called the meeting to order, calling the Committee's attention to H.B. 2609.

The Chairman called the first proponent to H.B. 2609 Walter Crockett, a member of the State Legislative Committee of the American Association of Retired Persons. Mr. Crockett said he was appearing in support of H.B. 2609. The Kansas State Legislative Committee has adopted as one of its five priorities this year, the support of a comprehensive program to improve access to health care for the uninsured persons, both young and old.(Attachemtn 1)

The Chairman called the next proponent,Chip Whelan, of the Kansas Medical Society. Mr. Whelan appeared in support of H.B. 2609, citing that some of the most important public issues during the decade of the 1990s will pertain to questions as to availability of affordable health care.(Attachment 2)

The Chairman called the next proponent, Carolyn Middendorf, M.N., R.N., of the Kansas State Nurses' Association. Ms. Middendorf appeared in support of H.B. 2609, stating the believe the initiation of such a structure will help the Legislature to focus on the problems of health care.(Attachment 3)

The Chairman called the next proponent, Dr. Charles Konigsberg, Director of Health, Kansas Department of Health and Environment. Dr. Konigsberg appeared in support of H.B. 2609, citing that KDHE is fully supportive of efforts to improve the process for developing and implementing health policy.(Attachment 4)

The Chairman called for the wishes of the Committee on H.B. 2609. Senator Strick made a motion to move H.B. 2609 out of the committee favorably. Senator Langworthy seconded the motion. The motion passed. Senator Langworthy will carry H.B. 2609.

The Chairman called the Committee's attention to S.B. 753.

The first proponent to appear was Chip Whelan, the Kansas Medical Society. Mr. Whelan offered an amendment to K.S.A. 65-2868, adding a (b) "Persons who review the quality, necessity, cost, or approrpiateness of patient care services rendered by licensees of the board, other than as an agent of the person or entity providing such care, or of the board." (Attachment 5) This would not change board policy. The State Board of Healing Arts has already decided on its own that persons who conduct medical review, review of medical care for example such as an insurance company to determine medical necessity, should be considered licensees by the healing arts. In other words, it is the practice of the healing arts, and that includes chiropractic as well medicine and surgery. This amendment would clarify that indeed utilization review of patient care is the practice

of the healing arts.

Staff Furse asked what the rationale was for reviewing cost?

Mr. Whelan said that in many instances the utilization focuses on cost almost entirely. That the appropriateness of the charge is often a disputable aspect of utilization review. Often the bottom line for utilization review is cutting loses for the insurance company.

Staff Correll asked how this would affect reviews on Medicaid program?

Mr. Whelan said in this particular instance, if coverage were denied, then a person licensed to practice would ultimately have to approve that denial.

The Chairman called the next proponent, Richard Gannon, Executive Director of the Board of Healing Arts.

Mr. Gannon said that he was appearing in favor of S.B. 753. What it says, you have constiuents that are being injured and killed by people practicing medicine and surgery without a license. Right now those individuals are not under anybody's jurisdiction, they don't have a license to practice and it's up to the county prosecutor or the district attorney or the attorney general to prosecute. Right now the maximum penalty is $200 and no one wants to seriously prosecute for a maximum penalty of $200. This bill will increase the penalty(Attachment 6).

The Chairman called the next proponent, Patrick Dunlap, M.D., who had been brought to the Committee hearing by Mr. Gannon.

Dr. Dunlap said he had been licensed to practice medicine in Kansas for 13 years. The first four of those in Wichita in training and the last nine in Ft. Scott. He said it was important to stress that we are not here to discuss the supervised licensed trained practice of mid-wifery in the state of Kansas. We're talking about people who are criminals, who are untrained, and unsupervised. In 1980, which was his last year in Wichita, he witnessed a tradgety occur. He was surprised at the tradgety because the husband was a podiatrist. Our patients that are targeted by the unlicensed mid-wife or naturopaths are not necessarily total unsophicated people. They are totally mislead. The podiatrist was interested in delivering his third child at home himself and retained the services of an unlicensed mid-wife. By the time problems were realized at home, the wife was brought into the hospital the baby was asphixiated and has permanent and total disability for the rest of its life. These things we see on a fairly routine basis now. The point of this is advances in obstetrics are very easy to scrutize. We have kept ongoing records for at least 75 years in the state of Kansas and we can target any numbers we chose to in terms in advances in the outcome for mothers and children. In 1935, nationally, mortality rate at 182 maternal deaths per 100,000 deliveries. That number in Kansas, last year was four deaths in roughly 40,000. Nationally nine deaths in 100,000. We have dropped this number from 582 to 9. Nurse mid-wifery is much more easy to scrutinize. Naturopathic practices, homopathic practices are much more difficult because of what's there is much more subtle.

The Chairman called the next proponent, Dr. Gerald Mowry, Manhattan.

Dr. Mowry said he appeared in support of S.B. 753 citing several cases of near-death births done by mid-wives.(Attachment 7)

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 526S, Statehouse, at 10:00 a.m./p.m. on March 22, 1990

The Chairman called the next proponent to S.B. 753, Dr. David A. Leitch, of Garnett, Kansas.

Dr. Leitch said he was appearing in support of S.B. 753. He said he had been a practicing physician since 1953. Dr. Leitch cited the cost of the delivery made by a physician, around $1500.00 verses the cost by a mid-wife, $850.00 who does not have to pay liability insurance. He included an advertisement from a mid-wife, Brenda Welsh, giving an 800 telephone number. Her area was from Texas to Nebraska. Also included is a copy of an article on Brenda Welsh which appeared in the Iola Register.(Attachment 8).

Senator Salisbury asked if they thought mid-wives should be licensed.

Dr. Mowry said that is what Barbara Welsh said, that Kansas Statutes don't address mid-wifery. I think the delivery of babies is the practice of medicine and should be licensed. I think that people that are delivering babies are practicing medicine and should be licensed and I think the penalty for practicing medicine or practicing medical surgery without a license, which is what this bill addresses, should be a lot more severe than it is and should be in line with violations made by licensees of the Board.

Senator Reilly asked if there is any knowledge of abortions being induced by mid-wifes.

Dr. Mowry said we feel fairly certain that there are mid-wives giving shots for the induction of labor. The problem, from my point of view is that there is not enough a fine or penalty to encourage anybody to investigate these reports so they go really unfounded.

Dr. Dunlap said they have received no complaints as far as mid-wives giving abortions, since the Supreme Court liberalized the abortion laws. The abortions are cheap enough that there is no competition for the services. If there is a change in the law again, that problem will resurface. It was a terrible problem in the 1960s and 1950s in Kansas and Arkansas.

Mr. Gannon said we have had several complaints about individuals practicing in other areas of medicine without licensure.

The meeting adjourned at 10:55a.m.. The next Committee meeting is scheduled for March 23, 1990, at 10:00a.m.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE
DATE 3/22/90

(PLEASE PRINT) NAME AND ADDRESS	ORGANIZATION
Tom Gress	KS. Hosp. Assn.
Richard Morrissey	KDHE
Marilyn Bradt	KINH
Carolyn Mederdorf	KSNA
Charles Konigsberg	KDHE
Harold Rieman	KAOM
Larry Buening	BHA.
[illegible]	"
[illegible]	Anderson Co Med Soc.
Patrick Pond, MD	Bourbon Co Med Soc.
[illegible]	Riley Co. Med Soc
Cathy Moore	
Keith Landis	Christian Science Committee on Publication for Kansas
[illegible]	KS Home for Aging
[illegible]	KDHE
Gary Robbins	Ks Opt Assn
Myrle Myers	Lederle Labs
Bill Dean	MMD
Bob Williams	Ks Pharmacists Assoc.

Please continue on next page

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE____________________

(PLEASE PRINT) NAME AND ADDRESS	ORGANIZATION
Jessie Branson	Legislature

A G E N D A

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

MARCH 22, 1990

I. H.B. 2609 - Yeas - 103, Nays - 19

Proponents:

1. Walter Crockett
2. Chip Whelan, Kansas Medical Society
3. Carolyn Middendorf, R.N., Kansas State Nursing Association
4. Charles Konisgsberg, KDHE

Opponents: none

II. S.B. 753

Proponents:

1. Chip Whelan, Kansas Medical Society
2. Richard Gannon, Board of Healing Arts
3. Patrick Dunlop, M.D., Ft. Scott
4. Gerald Mowry, M.D., Manhattan
5. David Leitch, M.D., Garnett

Opponents: none

Testimony on HB 2609: Establishing the Joint Committee on Health Care Decisions for the 1990s

The Chairperson and Members of the Senate Committee on Public Health and Welfare:

I am Walter H. Crockett, a member of the State Legislative Committee of the American Association of Retired Persons. The Kansas State Legislative Committee has adopted, as one of five priority items for this year, the support of a comprehensive program to improve access to health care for uninsured persons, both young and old.

Having studied this problem at some length, our Committee is convinced that the problem of access to health care for underinsured Americans has reached crisis proportions in the nation as a whole and in our state, in particular. Nearly one person in six cannot afford the attention of a regular physician either for preventive care or for the treatment of acute illnesses. In a nation with the best medical techniques and the most up-to-date medical facilities in the world, a substantial fraction of our population--both young and old, both employed and unemployed--is without effective health care.

HB2609 grew out of recommendations by the Commission on Access to Services for the Medically Indigent and Homeless. It will establish a joint committee of the Kansas Legislature to examine the health care needs of Kansans in the next decade and to propose legislation to meet those needs. This will enable our state to undertake a thoughtful, measured assault on the problem of health care for the underinsured. The AARP State Legislative Committee strongly supports this bill, as it expects, in future years, to support the health-care measures that emanate from the Joint Committee.

SPHW
Attachment #1
3/22/90

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

March 22, 1990

TO: Senate Public Health and Welfare Committee

FROM: Kansas Medical Society Chip Wheelen

SUBJECT: House Bill 2609; Joint Committee on Health Care Decisions for the 1990s

The Kansas Medical Society appreciates this opportunity to endorse the provisions of HB 2609. We agree with the Commission on Access to Health Care for the Medically Indigent and Homeless that some of the most important public issues during the decade of the 1990s will pertain to questions as to availability of affordable, quality health care.

As you are probably aware, there have been a number of studies conducted over the years that have attempted to address the problem of medical indigency. Yet, the problem persists because it is an extremely complex and difficult issue that cannot be resolved by a single study or a commission which is allowed to meet for only a brief period of time.

The Kansas Medical Society has on a number of occasions organized committees of physicians which study problems surrounding the access issue and have discovered frustrations similar to those study groups created by the Legislature or the Executive Branch. The analysis and deliberation as to how we may deal with access to affordable, quality health care should be an ongoing process and should be conducted by those who are in positions that can affect public policy.

We support HB 2609 and urge you to recommend it for passage. Thank you for considering our comments.

CW:lg

SPH+W
Attachment #2
3/22/90

KSNA
the voice of Nursing in Kansas

For further information contact:

TERRI ROBERTS, J.D., R.N.
EXECUTIVE DIRECTOR
KANSAS STATE NURSES' ASSOCIATION
700 JACKSON, SUITE 601
TOPEKA, KANSAS 66603
(913) 233-8638
March 22, 1990

H.B. 2609 Joint Committee on Health Care Decisions

Chairman Ehrlich and members of the Committee on Public Health and Welfare, my name is Carolyn Middendorf, MN, RN, and I am presently an assistant professor at Washburn University School of Nursing. I have been in the field of nursing for eighteen years and am currently the Legislative Chairperson for the Kansas State Nurses' Association.

The Kansas State Nurses' Association supports House Bill 2609 and its implementation. We believe the initiation of such a structure will help the Legislature to focus on the problems in health care, will indicate the present status of health care, promote the priority setting and policy-making and ensure more effective use of resources. We believe the coordination of services and resources will be welcomed. We feel that this bill would be effective in reducing the overlap of energies for a number of issues relating to access to health care, far outweigh the cost of such efforts.

Thank you for the opportunity to speak in support of this bill.

SPH+W
Attachment #3
3/22/90

State of Kansas
Mike Hayden, Governor

Department of Health and Environment
Division of Health

Stanley C. Grant, Ph.D., Secretary

Landon State Office Bldg., Topeka, KS 66612-1290

(913) 296-1343
FAX (913) 296-6231

Testimony presented to

Senate Committee on Public Health and Welfare

by

The Kansas Department of Health and Environment

House Bill No. 2609

The Department of Health and Environment has participated in and supported the deliberations of the Commission on Access to Services for the Medically Indigent over the last several years. We have first hand knowledge of the complex problems that the Commission has been wrestling with and we have experienced some of the same frustrations as the Commission in attempting to chart a policy course and pursue it over a number of years in addressing problems such as indigent care. Certainly, the issues of access of Kansas citizens to health care and reform of the ailing system for financing health care must get to the top of our priority list and stay there in order to begin to address these issues.

The Department is fully supportive of efforts to improve the process for developing and implementing health policy. Governor Hayden recently announced the formation of a Commission on Health Care intended to study and highlight issues surrounding the quality and accessibility of our health care system.

To the extent that a joint committee such as the one proposed in House Bill No. 2609 would assist in achieving greater visibility and continuity for health policy issues in the legislative process, we would urge you to consider the idea.

Presented by:

Charles Konigsberg, Jr., M.D., M.P.H.
Director of Health
Kansas Department of Health and Environment
March 22, 1990

SPH&W
Attachment #4
3/22/90

Charles Konigsberg, Jr., M.D., M.P.H., Director of Health (913) 296-1343

James Power, P.E., Director of Environment (913) 296-1535

Lorne Phillips, Ph.D., Director of Information Systems (913) 296-1415

Roger Carlson, Ph.D., Director of the Kansas Health and Environmental Laboratory (913) 296-1619

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

March 22, 1990

TO: Senate Public Health and Welfare Committee

FROM: Kansas Medical Society

SUBJECT: Senate Bill 753; Penalties for Violation of the Healing Arts Act

Thank you for this opportunity to express our support of SB 753. Some of you may recall that last year there was a measure which would have increased the amount of the fines for violations of the Healing Arts Act. We did not support that measure because it would have applied to licensees for even the most minor violations of the Act. By contrast, SB 753 allows the courts to exercise discretion and impose jail sentences, as well as monetary fines in the event of a violation of the Healing Arts Act. It also provides specific language to protect the licensee who has, for some reason, failed to renew a license on time.

We believe that if a person practices medicine without a license, then that person should be punished. If in fact the practice of medicine without a license results in injury to another person, then the courts should have the discretion to impose an even more severe penalty in the form of a jail term. It is for these reasons that we request that you recommend passage of SB 753. Thank you for considering our comments.

CW:lg

SPHW
Attachment #5
3/22/90

65-2868. Persons deemed engaged in practice of healing arts. For the purpose of this act the following persons shall be deemed to be engaged in the practice of the healing arts:

(a) Persons who hold themselves out to the public as being engaged in or who maintain an office for the practice of the healing arts as defined in K.S.A. 65-2802.

(b) Persons who review the quality, necessity, cost, or appropriateness of patient care services rendered by licensees of the board, other than as an agent of the person or entity providing such care, or of the board.

Office of
RICHARD G. GANNON, EXECUTIVE DIRECTOR
LAWRENCE T. BUENING, JR., GENERAL COUNSEL
JOSEPH M. FURJANIC, DISCIPLINARY COUNSEL
SUSAN LAMBRECHT, LICENSING SUPERVISOR

State of Kansas

Kansas State Board of
Healing Arts
235 S. TOPEKA BLVD
TOPEKA, KS 66603
913 296 7413

Board of Healing Arts

TESTIMONY SB 753

TO: Senate Committee on Public Health and Welfare

FROM: Richard G. Gannon, Executive Director

DATE: March 22, 1990

Mr. Chairman and members of the committee, thank you very much for the opportunity to appear before you today. SB 753 was requested to be introduced by the State Board of Healing Arts. The reason for the introduction of this bill is to rectify a situation which the Board believes presents grave concerns and danger to the citizens of the State of Kansas.

Under KSA 65-2801, the Healing Arts Act was adopted by this legislature in 1957 to ensure the public is properly protected against "unprofessional, improper, unauthorized and unqualified practice of the Healing Arts." Pursuant to KSA 65-2812, the Kansas State Board of Healing Arts is vested with the responsibility of administering the Healing Arts Act.

I would respectfully submit that the Board is doing a most acceptable job of reviewing and disciplining those more than 11,000 individuals it licenses, registers or certifies when those individuals are shown to be incompetent or have violated other statutory provisions for which disciplinary action can be taken; however, the concern of the Board which SB753 addresses is to enable better control of individuals who attempt to practice the Healing Arts without any credentials whatsoever.

At present, KSA 65-2862 provides that any individual who violates any provisions of the Healing Arts Act shall, upon conviction of the first offense, pay a fine of not less than $50.00 nor more than $200.00. For a second violation of the Healing Arts Act the fine is not less than $100.00 nor more than $500.00 for

SPH&W
Attachment #6
3/22/90

each separate offense. There is no provision whatsoever for any imprisonment for this unlawful and unqualified practice.

Board staff has researched the criminal penalties for the unlicensed or unregistered practice by individuals both within and without the health care field. For instance, podiatrists are also licensed by the State Board of Healing Arts. Under KSA 65-2007, a conviction for violation of the Podiatric Act would result in a fine of not more than $300.00 or imprisonment in the county jail for a period not to exceed 90 days. A person who violates any provision of the physical therapy laws would be guilty of a Class B Misdemeanor pursuant to KSA 65-2916. Persons who hold themselves out as either occupational therapists or respiratory therapists without being registered by the Board of Healing Arts would, under KSA 1989 Supp. 65-5415 and 5514, be guilty of Class C Misdemeanor.

There are also additional examples outside of the professions regulated by the State Board of Healing Arts in which the penalties for violation greatly exceed those presently in existence for the unlicensed practice of the Healing Arts. For instance, it is unlawful for any person to engage in barbering in this State without complying with the registration statutes for that profession. KSA 65-1828 make such a violation a misdemeanor punishable by a fine of not less than $25.00 or imprisonment not exceeding 6 months or both. Under KSA 1989 Supp. 65-1162, a licensed nurse who administers general or regional anesthesia without being authorized to practice as a registered nurse anethesist by the Nursing Board is guilty of a Class A Misdemeanor. However, an individual who administers anesthesia but is not licensed as a nurse would be engaged in the practice of the Healing Arts and would only be subject to a fine of not less than $50.00 nor more than $200.00 under the present provisions of KSA 65-2862. KSA 1989 Supp. 65-6303 makes it a Class B Misdemeanor for a person to engage in the practice of social work without a license.

In this session of the Legislature, this committee has dealt with HB2630 which would amend the Optometry Law to make a violation of that a Class C Misdemeanor for the first offense and Class B Misdemeanor for second and subsequent offenses. Also, SB775 has been introduced by the committee on Federal and State Affairs and would provide for the licensure of auctioneers. New Section 4 of that bill would make it unlawful to act as an auctioneer without having a valid license and would make such a violation a Class B Misdemeanor.

For your assistance, I have attached copies of the laws which set forth the penalty provisions for Class A, Class B and Class C Misdemeanors.

Kansas State Board of Healing Arts
Testimony - SB753
March 22, 1990

Without unduly prolonging this testimony, I will advise the Board Staff has also researched various other State laws. A substantial number of states have criminal penalties for the unlawful and unlicensed practice of the Healing Arts greatly in excess of that presently provided by KSA 65-2862.

The intent of SB753 is not to criminally punish individuals who have been licensed by the Board and who truly have appropriate qualifications to practice the Healing Arts in this State; rather, the intent of this bill is to strengthen the criminal penalties of the unlicensed and unqualified practice by a variety of individuals including homeopaths, lay-midwives, naturopaths who exceed their statutory scope and other quacks and charlatans. Time and time again, the Board has received complaints and concerns relating to the practice of the Healing Arts by unlicensed persons. These complaints are all investigated by the Board staff and, upon conclusion, referred to the appropriate county or district attorney. In light of the minimal penalties for a conviction under the present language of KSA 65-2862, there has been understandable reluctance on the part of the county and district attorneys to expend the time and resources necessary in order to obtain a conviction. For instance, one of the conferees you will hear today will provide evidence that a lay-midwife charges $850.00 to deliver babies. Even if this individual was prosecuted, convicted and fined the maximum under KSA 65-2862, that individual would continue to reap handsome profits from simply continuing to violate the law and deliver babies. The present language of KSA 65-2862 simply does not provide adequate incentive to prosecutors nor sufficient deterrents to violators under its present language.

In conclusion, the Board strongly urges the adoption of SB753 so that the public can be better protected from the practice by unlicensed and unqualified individuals. I would happy to respond to any questions you might have.

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63. Sentencing examined where two criminal offenses with identical elements but different penalties involved. State v. Nunn, 244 K. 207, 228, 768 P.2d 268 (1989).

64. Time limits on district court's jurisdiction to modify sentences and exceptions thereto (21-4603(3)) examined. State v. Saft, 244 K. 517, 769 P.2d 675 (1989).

21-4502. Classification of misdemeanors and terms of confinement; possible disposition. (1) For the purpose of sentencing, the following classes of misdemeanors and the punishment and the terms of confinement authorized for each class are established:

(a) Class A, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one year;

(b) Class B, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed six months;

(c) Class C, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one month;

(d) Unclassified misdemeanors, which shall include all crimes declared to be misdemeanors without specification as to class, the sentence for which shall be in accordance with the sentence specified in the statute that defines the crime; if no penalty is provided in such law, the sentence shall be the same penalty as provided herein for a class C misdemeanor.

(2) Upon conviction of a misdemeanor, a person may be punished by a fine, as provided in K.S.A. 21-4503 and amendments thereto, instead of or in addition to confinement, as provided in this section.

(3) In addition to or in lieu of any other sentence authorized by law, whenever there is evidence that the act constituting the misdemeanor was substantially related to the possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person, the court may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the administrative judge of the judicial district or licensed by the secretary of social and rehabilitation services.

(4) Except as provided in subsection (5), in addition to or in lieu of any other sentence authorized by law, whenever a person is convicted of having committed, while under 21 years of age, a misdemeanor under the uniform controlled substances act (K.S.A. 65-4101 *et seq.* and amendments thereto) or K.S.A. 41-719, 41-727, 41-804, 41-2719, 41-2720, 65-4152, 65-4153, 65-4154 or 65-4155, and amendments thereto, the court shall order such person to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee not to exceed the fee established by that statute for such evaluation. If the court finds that the person is indigent, the fee may be waived.

(5) If the person is 18 or more years of age but less than 21 years of age and is convicted of a violation of K.S.A. 41-727, and amendments thereto, involving cereal malt beverage, the provisions of subsection (4) are permissive and not mandatory.

History: L. 1969, ch. 180, § 21-4502; L. 1977, ch. 117, § 2; L. 1979, ch. 90, § 4; L. 1989, ch. 95, § 4; July 1.

CASE ANNOTATIONS

6. Cited; presumption in favor of probation (21-4606a) examined where first convictions are Class E felonies. State v. Knabe, 243 K. 538, 539, 757 P.2d 308 (1988).

7. Limitations on conditions of probation and parole (21-4602) determined. State v. Mosburg, 13 K.A.2d 257, 261, 768 P.2d 313 (1989).

21-4504. Conviction of second and subsequent felonies; exceptions. (a) If a defendant is convicted of a felony specified in article 34, 35 or 36 of chapter 21 of Kansas Statutes Annotated a second time, the punishment for which is confinement in the custody of the secretary of corrections, the trial judge may sentence the defendant as follows, upon motion of the prosecuting attorney:

(1) The court may fix a minimum sentence of not less than the least nor more than twice the greatest minimum sentence authorized by K.S.A. 21-4501 and amendments thereto, for the crime for which the defendant is convicted; and

(2) the court may fix a maximum sentence of not less than the least nor more than twice the greatest maximum sentence provided by K.S.A. 21-4501 and amendments thereto, for the crime.

(b) If a defendant is convicted of a felony specified in article 34, 35 or 36 of chapter 21 of Kansas Statutes Annotated a third or subsequent time, the trial judge shall sentence the defendant as follows, upon motion of the prosecuting attorney:

(1) The court shall fix a minimum sentence of not less than the greatest nor more than three times the greatest minimum sentence authorized by K.S.A. 21-4501 and amendments

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1970, ch. 12
1978, ch. 12
1989, ch. 92

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5. Cited, 21-3508 as inapplicable without underlying felony, misdemeanor or civil case as basis for penalty classifications examined. State v. Hagen, 242 K. 707, 708, 750 P.2d 403 (1988).

21-4503. Fines. (1) A person who has been convicted of a felony may, in addition to or instead of the imprisonment authorized by law, be sentenced to pay a fine which shall be fixed by the court as follows:

(a) For a class B or C felony, a sum not exceeding $15,000.

(b) For a class D or E felony, a sum not exceeding $10,000.

(2) A person who has been convicted of a misdemeanor may, in addition to or instead of the confinement authorized by law, be sentenced to pay a fine which shall be fixed by the court as follows:

(a) For a class A misdemeanor, a sum not exceeding $2,500.

(b) For a class B misdemeanor, a sum not exceeding $1,000.

(c) For a class C misdemeanor, a sum not exceeding $500.

(d) For an unclassified misdemeanor, any sum authorized by the statute that defines the crime; if no penalty is provided in such law, the fine shall not exceed the fine provided herein for a class C misdemeanor.

(3) As an alternative to any of the above fines, the fine imposed may be fixed at any greater sum not exceeding double the pecuniary gain derived from the crime by the offender.

(4) A person who has been convicted of a traffic infraction may be sentenced to pay a fine which shall be fixed by the court not exceeding $500.

History: L. 1969, ch. 180, § 21-4503; L. 1979, ch. 90, § 5; L. 1983, ch. 135, § 3; L. 1984, ch. 39, § 34; Jan. 1, 1985.

Judicial Council, 1968: By classifying crimes of like gravity within a single category and providing a single statutory penalty for all crimes within each class, the section seeks to establish a rational and consistent system of penalties. Where punishments are provided separately, in connection with each definition of criminal conduct, apparent disparities may often be observed. The classification is intended to eliminate those disparities.

The idea here implemented is suggested by the Model Penal Code, 6.06.

The following characteristics of the penalty provisions should be observed:

(a) The alternative penalties of death or life imprisonment are retained for Class A felonies (first-degree murder and aggravated kidnapping).

(b) Other felony penalties are indeterminate within the limits fixed by the statute.

(c) In each case the maximum term is fixed by law.

(d) In the cases of Class B, C and D felonies, the Court shall fix the minimum term within the limits provided.

(e) In its discretion the court may select an appropriate minimum penalty, after giving consideration to the criteria suggested in section 21-4606. Note that the defendant's history of prior criminal activity is one of the circumstances that may be considered by the court in fixing the penalty. From the standpoint of the convicted person, the minimum term is the most significant part of the sentence, as it determines the period that must be served before he becomes eligible for parole.

(f) Fines are authorized in felony cases. Criteria for the imposition of fines are found in section 21-4607.

(g) Maximum penalties are prescribed for misdemeanors of each class. Within these limits, a court may impose any appropriate sentence of confinement or fine or both.

(h) Unclassified crimes are those which are defined and made punishable in chapters other than the crimes act. There are more than 1500 such offenses, found in virtually every chapter of the statute book. These are mainly intended to implement regulatory legislation and are not appropriate subjects for a criminal code. Hence, this revision of the crimes act does not affect them either as to content or penalty.

Cross References to Related Sections:

Criteria for setting fines, see 21-4607.

Law Review and Bar Journal References:

"Constitutional Law—Imprisonment of Convicted Indigent for Nonpayment of Fine," John Terry Moore, 10 W.L.J. 120, 127 (1970).

"Decisions, Decisions, Decisions," Terry L. Bullock, 17 W.L.J. 26, 27 (1977).

"Survey of Kansas Law: Family Law," Camilla Klein Haviland, 27 K.L.R. 241, 250 (1979).

"The Admissibility of Child Victim Hearsay in Kansas, A Defense Perspective," Christopher B. McNeil, 23 W.L.J. 265, 268 (1984).

Attorney General's Opinions:

Size, weight, and load of vehicles; penalties for weight violations. 81-44.

CASE ANNOTATIONS

1. Mentioned in holding that a defendant is to be considered convicted of a crime even though not yet sentenced. State v. Holmes, 222 K. 212, 214, 563 P.2d 480.

2. Court cannot, when firearm used (21-4618), impose fine instead of minimum sentence. State v. Keeley, 236 K. 555, 560, 694 P.2d 422 (1985).

3. Cited; specific findings required of court before imposing fine (21-4607) examined. State v. McGlothlin, 242 K. 437, 439, 747 P.2d 1335 (1988).

21-4504. Conviction of second and subsequent felonies; exceptions. (a) If a defendant is convicted of a felony a second time, the punishment for which is confinement in the custody of the secretary of corrections, the trial judge may sentence the defendant as follows, upon motion of the prosecuting attorney:

6-5

TO:The COMMITTEE ON PUBLIC HEALTH AND WELFARE
KANSAS SENATE

From: Gerald L. Mowry, M.D.,F.A.C.O.G.
1441 Anderson Avenue
Manhattan KS 66502 913-776-4200

I have been asked by the Executive Director of the Kansas State Board of Healing Arts to give a report on obstetrical cases requiring emergency intervention by a physician after attempts by lay midwives in home delivery had failed.

In the hospital setting, modern techniques, training, and technology have brought us nearly an irreducible minimum of mother-baby deaths. Emergencies in obstetrics can arise so suddenly and unpredictably that there is no time to seek outside help. Those present must be able to handle the emergency in order to save the mother or baby's life.

In a ten-year study from England, even with carefully selected home delivery systems, with back-up physician and hospital available, it was found that mother-baby deaths decreased as the number of home deliveries went down.

In the United States, studies of systematically developed home-delivery systems show that well-trained personnel with well-planned procedures for delivery, including hospital back-up for emergency can produce nearly normal safety statistics. However, the directing person must have thorough training in labor and delivery, including knowledge of ALL potential complications. Naturally, patients who are found during their prenatal visits to present any risk factors whatsoever are required to deliver in the hospital.

SPHW
Attachment #1
3/22/90

The same cannot be said for lay midwives, whose "training" may only consist of neighborhood experience gained from "helping"with deliveries. Some do not use the term "midwife," but style themselves "baby catchers" in order to avoid liability for practicing without a license. They believe that their patient, or "friend" has a right to deliver at home and in their presence, which is true. They usually do not state a charge for their services, but their patients know what amount of "gift" is expected.

Some attend pre-natal visits to an obstetrician with their "patient" asking questions and expecting to see the results of laboratory reports, and so forth. Most obstetricians are cooperative, desiring to help the patient have as satisfactory an outcome as possible. The obstetrician knows that he will not be called when it is time for delivery.

From time to time, a well-meaning newspaper article will glamorize the role of the lay-midwife as a reasonable alternative to expensive high-tech hospital care. Tragedy follows in its wake.

Unfortunately, the present penalty for practicing without a license is insufficient to discourage lay midwives from their dangerous practices. As women must be free to choose their care, it is unlikely that women will cease to seek this risky form of delivery when it is readily available. The baby, of course, has no choice at all.

Perhaps a few examples from my locality would illustrate, gathered by several obstetricians. Patient names have been altered to protect the guilty.

Dorothy, a 31-year-old mother of two, a professor, and professor's wife, delivered at home about three blocks from the hospital. Her pregnancy and prenatal care were normal. Because of heavy bleeding, she was brought in by the family and lay midwife about a half-hour after delivery.

She was in shock, weak, and had an undelivered placenta. Ten minutes later, we could get neither pulse nor blood pressure. Emergency treatment by blood replacement saved her life. She required 4 units of blood---the equivalent of half her circulating blood volume. In spite of this massive transfusion, her anemia, hemoglobin level, was three pints below normal.

Two weeks later, she was back in class, telling her students about the glorious experience she had with home delivery...but not a word about her narrow escape from death.

Karla, a 24-year-old mother, delivered her second child at home. Four hours after delivery, still bleeding, with the placenta still attached, she was brought to the emergency room of the hospital. She required general anesthesia, IV's and two units of blood to survive. The placenta had to be removed manually and a D & C performed.

Martha, a 33-year-Old mother of three, gave birth at home to a nice large son with a fractured clavicle due to shoulder dystocia. Four hours later she was brought to the hospital by the lay midwife. She was in shock and still bleeding. Four units of blood replacement were required to stabilize her, and extensive repair of lacerations required to stop the bleeding. She was still anemic three more pints of blood when she left the hospital.

Linda, an 18-year-old with her first pregnancy, labored at home for twenty-four hours without progress before the lay midwife noted that the baby's heartbeat was dropping dangerously. After she was brought to the hospital, a Caesarean section delivered a ten-pound, thirteen-ounce baby by the only route this child could have been safely delivered.

Her obstetrician had known that the pelvic measurements were adequate only for passage of a small baby. Hospital monitoring of the baby would have shown the baby's problems much earlier and spared the mother and baby a dangerously long and stressful labor.

Sheila, a 33-year-old mother of three decided to deliver her baby at home after an uneventful pregnancy. She thought she was in early labor. Six hours later, she was complete,dilated,and after two-and-a-half hours of pushing, the baby's heart rate dropped below safety. She was brought to the hospital just in time by a frightened midwife. The presentation of the head was complex, face up, with the chin down. No baby can be delivered from this position, dead or alive.

Rotation of the head or Caesarean section must be done to avoid further trauma to the baby. The Caesarean section done after such prolonged pushing was accompanied by three units of blood loss. Because she was brought to the hospital in time, she and her baby both survived.

Ursula, a 28-year-old professor's wife, having their first baby, also had an uneventful pregnancy. They planned to deliver at home. The lay midwife brought her to the hospital after six hours of complete dilation and pushing without effecting delivery. The safe limit in the hospital would have been about two hours. The baby, by this time was in serious distress.

The baby was delivered in about ten minutes at the hospital with IV's, oxygen to support the baby, local blocks for pain, and a one-forcep----spoon-like rotation,and an easy outlet delivery.

It was not soon enough, however,to ease the baby's distress. He was further stabilized with oxygen, placed on a respirator, given IV fluids, and then transferred by helicopter to an Intensive Care Nursery. He was kept there for a week before he was well enough to be returned to our hospital nursery. The baby had demonstrable brain damage on the CTScan and failed to thrive. He did not follow the usual pattern of development and behavior and died at 15 months of brain damage.

We could go on, but these are examples of the risks posed by home delivery under the care of untrained, unsupervised lay midwives. Those of us who care about safety for mothers and babies believe that the penalties for delivering babies without license, training, or supervision, should be increased to a level that would prevent substandard care from being offered in Kansas.

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CURRICULUM VITAE

Gerald L. Mowry, M.D., F.A.C.O.G

Practicing Obstetrician-Gynecologist in Manhattan, Kansas from 1963-1990.

University Of Kansas School of Medicine, M.D., 1953
Rotating Internship, 1953-54

Family Practice, Platte City, Missouri, 1954-55

Family Practice, Hanover, Kansas, at Hanover Hospital,(the pilot hospital in Chancellor Franklin Murphy's plan to bring medical school graduates into Kansas small towns.) 1955-1960

Residency Training Program in Obstetrics & Gynecology, KUMC 1960-63

Certified by the American Board of Obstetrics and Gynecology

Fellow, American College of Obstetricians and Gynecologists

Former Chairman, Kansas Section, American College of Obstetricians and Gynecologists.

Former President, Kansas Obstetrical Society

Chairman, Kansas Statewide Perinatal Committee

SELECTED STATISTICS FOR KANSAS AND THE UNITED STATES
1965, 1975, 1980, and 1984-1988

Year	KANSAS				U.S.
		Perinatal Period III Deaths			
	Total Births	Fetal Deaths	Hebdomadal Deaths (Under 1 Week)	Rate[a]/	Rate[a]/
1965.....	39,644	466	550	25.6	n.a.
1975.....	34,048	341	304	18.9	n.a.
1980.....	41,026	340	226	13.8	n.a.
1984.....	40,232	278	200	11.9	n.a.
1985.....	39,692	274	184	11.5	n.a.
1986.....	39,419	242	153	10.0	n.a.
1987.....	38,688	253	179	11.2	n.a.
1988.....	38,718	236	161	10.3	n.a.

	Live Births	Neonatal Deaths	Kansas Rate[b]/	U.S. Rate[b]/
1965.....	39,178	600	15.3	17.7
1975.....	33,707	341	10.1	11.6
1980.....	40,686	269	6.6	8.5
1984.....	39,954	251	6.3	7.0
1985.....	39,418	227	5.8	7.0
1986.....	39,177	190	4.8	6.7
1987.....	38,435	208	5.4	6.5[c]/
1988.....	38,718	186	4.8	6.4[c]/

	Live Births	Infant Deaths	Kansas Rate[b]/	U.S. Rate[b]/
1965.....	39,178	814	20.8	24.7
1975.....	33,707	468	13.9	16.1
1980.....	40,686	412	10.1	12.6
1984.....	39,954	392	9.8	10.8
1985.....	39,418	357	9.1	10.6
1986.....	39,177	337	8.6	10.4
1987.....	38,435	353	9.2	10.0[c]/
1988.....	38,718	304	7.9	9.9[c]/

	Live Births	Maternal Deaths	Kansas Rate[d]/	U.S. Rate[d]/
1965.....	39,178	12	3.1	3.2
1975.....	33,707	6	1.8	1.3
1980.....	40,686	4	1.0	0.9
1984.....	39,954	4	1.0	0.8
1985.....	39,418	3	0.8	0.8
1986.....	39,177	1	0.3	0.7
1987.....	38,435	1	0.3	0.8[c]/
1988.....	38,718	4	1.0	0.8[c]/

Perinatal Period III Death: The death of a fetus which weighs more than 350 grams or a liveborn infant during the hebdomadal period (less than seven days after birth).
Neonatal Death: The death of a liveborn infant which occurs prior to the twenty-eighth day of life.
Infant Death: The death of a liveborn infant which occurs within the first year of life.

a/Perinatal Period III Death Rates are expressed per 1,000 total births (live births plus fetal deaths).
b/Neonatal and Infant Death Rates are expressed per 1,000 live births.
c/Estimates.
d/Maternal Death Rates are expressed per 10,000 live births.

Residence data.
Source: Kansas Department of Health and Environment
I/7

9/89

SELECTED STATISTICS FOR KANSAS

1940, 1950, 1960, 1970, 1980 and 1988

Year	Perinatal Period III Death Rates*	Maternal Death Rates**
1940	45.3 (1343 deaths)	35.5 (102 deaths)
1950	32.0 (1425 deaths)	6.1 (27 deaths)
1960	28.2 (1449 deaths)	1.8 (9 deaths)
1970	23.3 (900 deaths)	1.3 (5 deaths)
1980	13.8 (566 deaths)	1.0 (4 deaths)
1988	10.3 (397 deaths)	1.0 (4 deaths)

* Perinatal Period III Death Rates are expressed per 1,000 total births (live births plus fetal deaths).

** Maternal Death Rates are expressed per 10,000 live births.

3/90

Ti A. Dougherty, M.D.
Board Certified A.A.F.P.

David A. Leitch, M.D.
Board Certified A.A.F.P.

Ralph Sheern, Jr., Clinic

The Medical Center Clinic

117 WEST 6TH

GARNETT, KANSAS 66032

To the Senate Public Health and Welfare Committee
Senator Roy Ehrlich, Chairperson
Given 22 March 1990

Committee Members and others:

My name is David A. Leitch, M.D., of Garnett, Kansas. I represent and speak for myself and the Anderson County Medical Society in support of SB753 in its intent to increase the penalty for proven cases of the practice of medicine and surgery without a license. The present fine of only $200.00 is apparently not enough to warrant county attorneys to prosecute incidents when they are reported. In my opinion, this should be a felony offense, if proven, with a severe penalty.

The cost of obstetrical deliveries in rural Kansas has risen dramatically over the last 24 years that I have been in family practice. The charge I made for an uncomplicated delivery in 1966 was about $400. 00, and in December 1988 when I quit 08 deliveries, about 1000 deliveries later, my charge was $1200.00. Currently in Garnett the quoted fee is $1500.00, one-half at the time of the first visit and the entire bill paid by the time of delivery. This rise in cost has encouraged midwifery to advertise as an alternative to hospital delivery; particularly since their listed fee is only $850.00 plus some incidental payments to other people.

I first became acquainted with midwifery on the Blackfoot Indian Reservation in Montana during 1964-66 while serving with the USPHS Indian Health Service. We worked very hard there to reduce home deliveries(and complications) and after two years had decreased home deliveries from 20% to only 5% by providing good care and delivery of healthy babies. I next heard of midwifery in Anderson County in 1983 when, being a small town and rural area, I heard a midwife was going to deliver two pregnant womem in our community. One of our doctors tried for an hour to talk a pregnant woman who had had an unfortunate outcome with her first pregnancy out of seeking obstetrical care from a midwife. This midwife was reported to be president of the Kansas Midwife Association.

Some time later in 1983, I was summoned STAT to the Emergency Room to see a woman hemorrhaging profusely following a home delivery. The woman previously visited with was brought by family members bleeding heavily and in shock. The family and very critically ill patient were quite vague about what had happended during that delivery and no midwife accompanied her patient nor attempted to visit with me regarding what had happened. Examination showed, among other things, multiple small tears of the anterior or front portion of the cervix as if it had been grabbed multiple times by some instrument. There was a large, long tear in the posterior part which extended up in to the uterus. This case required multiple blood transfusions,

SPHW
Attachment #8
3/22/90

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Ralph Sheern, Jr., Clini

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117 WEST 6TH

GARNETT, KANSAS 66032

a general anesthetic, surgical repair of a torn uterus with the need for C-Section for the next pregnancy, and lots of luck and heroic measures to save the woman's life.

At about the same time one of the other doctors in our small community reported a case of peuperal sepsis (infected uterus and female parts) following a home delivery and requiring his treatment. He attributed this complication to improper delivery practices.

Following these two cases, there was a quiet interval in which an Amish woman was delivered three times at home, as the only midwife activity in known to the medical community until the fall of 1989 when a brochure (ATTACHMENT I) was found at grocery stores, cafes, a WALMART store, and other public places advertising services. Investigation showed indeed a woman was putting out brochures and was in fact doing home deliveries and alledged to hove done 270 such deliveries. A large front page article and pictures in 25 January 1990 THE IOLA REGISTER touted the skills of this person and reporting statements made by her of which I am sure you will be interested and I quote:

"Kansas has no statutes regarding midwifery, Welsh said, but case law has been supportive of the profession in the past."

"Because she is not licensed, Welsh said she does not have to have any form of liability insurance for her midwifery services."

" The important part is that the consumers are there, and as long as there are consumers, there will be midwifery, Welsh said." (ATTACHMENT II)

January 27, 1990, the Coronor of Anderson County was contacted by a family concerning a woman who had fallen over dead. She was found to be 16 days post partum having been delivered alledgedly at home by a midwife who had not been seen since. She had not done any followup care. Grieving at home were the husband and eleven children. Further investigation showed the deceased had been sent to ANDERSON COUNTY HOSPITAL earlier in her pregnancy for an OB Ultrasound alledging she was under the care of an obstetrician in Kansas City. The pregnant woman was sent a registered letter advising her she should be under the care of a physician qualified to handle complications during pregnancy. I would assume the letter was discussed with the midwife. A complete autopsy was done in this case and the death certificate was reported to say desseminated intravascular coagulopathy.

Members of the ANDERSON COUNTY MEDICAL SOCIETY have since received undocumented reports of midwifery services including suturing of tears

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following delivery and the giving of "shots" to induce labor.

In summary, I and the ANDERSON COUNTY MEDICAL SOCIETY feel that the proven practice of medicine and surgery without a license and the risk to the general population by that act should carry a pehalty in line with what licensed professionals would suffer. This, in my opinion, should be a severe economic setback in tbe form of a large fine, a restriction in work opportunity in the form of a mandatory jail sentence, and the requirement that notification in writing be made to any potential pregnant woman and her family of all proven adverse outcomes as a result of these illegal services. A $200.00 fine is not enough penalty for eleven motherless children and a distraught husband.

Thank you very much for your patient and attention. If I can answer any questions, I would be happy to attempt to.

David A. Leitch, M.D.
117 W. 6th
Garnett, Kansas 66032

Gentle Hands Midwifery

Home Birth Service

Brenda Welsh, Midwife

1-800-633-0028 Ext.590

8-4

Introduction

I am a midwife, nutritionist, and childbirth educator. My attitudes towards childbirth and my health care philosophies continue to evolve in response to my experiences. Like many women, my memory of my first child's delivery is a haze of pain, drugs, and instrument manipulation. When he was two years old, I was invited to share the miracle of birth with my neighbors as they brought forth their first son in the privacy of their home.

Ten months later, I was astounded by the profound beauty and spirituality I experienced as I gave birth at home. Motivated by a desire to share my discovery of birth — its love, its joy, its healing potential — I earned my certification as a childbirth educator. Following four years teaching experience and midwifery training, I initiated my midwifery practice in 1980 and have helped hundreds of families make their desire for a safe, competently attended home birth a reality.

Giving birth is a powerful, uniquely personal experience that opens the heart and teaches love. Many parents want to share this dynamic family event in the calm privacy of their home where they know they will not be separated and their wishes will be respected. Responding spontaneously to the rhythm of birth, they labor together in harmony, assisted by the support team of their choice. They enjoy the familiar comforts of home, feeling safe, secure, relaxed. Their child emerges and is gently lifted from the womb to the breast. As they meet the wondering gaze and experience the soft skin and delicate scent of their baby, they know that giving birth is a privilege, a miracle of life.

Philosophy of Care

Gentle Hands Midwifery recognizes that effective health care must encompass the whole person. We endeavor to fully prepare our clients so they enter birth in optimal emotional and physical health. We strive to empower parents with knowledge and support their right to create the birth experience best for them. We value the special relationship that develops between father, mother, and baby during this time, and encourage involvement of both parents in each phase of this creative process.

Women in labor are vunerable. An insensitive remark can be devastating; interference in this natural phenomenon often causes difficulties which require further technological intervention. We understand this correlation and avoid disrupting the normal flow of labor. We utilize technology when it is advantageous to the mother and baby, while protecting the normalcy of birth and providing personalized, family-centered care.

Newborns are sensitive, intelligent human beings who deserve gentleness, consideration, and loving arms. It is a joy to witness their trusting exploration of their world. We are firmly committed to helping parents provide their children with the nutrient rich, supportive beginning they need to achieve their full potential. Our clients are asked to observe the nutritional tenents necessary for a strong immune system, efficient uterine function, and a healthy infant. It is far better to prevent nutritional and emotional deficits than to compensate for them during birth and later.

Recommendations

Good communication with Physician

Chiropractic Care in the Third Trimester

Thorough Preparation — Classes, Reading

Complete abstinence from alcohol, nicotine, caffeine, and non-prescription drugs

Avoidance of Nutrient Depleted Foods

High-quality Vitamin/Mineral Supplementation

Intention to Breastfeed

Professional Affiliations

Association for Childbirth at Home, Intl.
P.O. Box 431, Glendale, CA 91209
(213) 663-4996

Kansas Midwives Association
320 North 15th, Manhattan, KS 66502
(913) 539-6098

Midwives' Alliance of North America
Regional Headquarters
600 Fifth St., Monett, MO 65708

Intl. Assn. of Parents and Professionals for
Alternatives in Childbirth
[illegible] - Box 646, Marble Hill, MO 63764

Services

Prenatal

Pregnancy Tests
Childbirth Education Classes
Nutritional Counseling
Referral to Appropriate Resources
Preparation of Children or Friends
Pre-Birth Party
to review emergency back-up plan and responsibilities
Complete Birth Kit

Birth

Labor Support
providing any help necessary to handle contractions
Maternal and Fetal Well-Being Monitored
including labor progress, metabolic normalcy, fetal position, heart tones, and descent
Low-Stress, Gentle Birth Techniques
Immediate Newborn Care, Blood Loss Prevention, Placental Delivery and Inspection

Postpartum

Newborn Assessment and Leboyer Bath
Breastfeeding and Birth Control Counseling
Home Visits
Birth Certificate Filed
Birth Records and Statistics Maintained

Other Services

Community Workshops
—Coordination of Interventive Care with Medical Personnel
—Discussion of Birth Options and the Midwifery Profession with Churches, Schools, and Colleges
Hospital or Birth Center Labor Coaching
Birth Photography — 35mm or VHS video

Ja 25, 1990
Vol. , No. 77

The Iola Register

Iola, KS
Two Se

Register/Kelly Presnell

Midwife Brenda Welsh of Kincaid holds Austin Lyons, who she helped deliver Oct. 31 at the rural Osawatomie home of Troy and DeAnn Lyons. Welsh's business keeps her on the move as she travels throughout eastern Kansas helping not only in the birth process but also in prenatal and postnatal stages of pregnancies.

Home birth led to profession

Kincaid midwife now helps others

By BRUCE SYMES
Register Wire Editor

Brenda Welsh of Kincaid had an experience 14 years ago that directly led to her occupation today.

Welsh had given birth to a son in 1972. The delivery was done in a hospital. Two years later, she was invited to attend a friend's home birth of a child.

Less than a year later, in 1975, Welsh had a second son in the comfort of her home and in the company of friends and family. The experience changed her outlook on the birthing experience.

Welsh operates Gentle Hands Midwifery, a business operated from her home which provides prenatal, birth and postpartum services to families in a large area of eastern Kansas.

The midwife, nutritionist and childbirth educator — Welsh has nearly earned a degree in nutrition with an emphasis in nutrition, chemistry and biological sciences from Park College, Kansas City, Mo. — spends countless hours on the road and in the homes of her clients, keeping check on the health of the expecting mother and monitoring the growth of the baby.

For Welsh, as for two client families interviewed for this story, the home birth was incomparable to a hospital birth.

"Like two different worlds," was how Welsh explained the comparison. She said she thought a "dehumanization" occurred in hospital births, because expecting mothers were in an unfamiliar, unpersonal atmosphere and were often connected to

(Continued on page 6, column 3)

8-7

(Continued from page 1)

machines which denied any comfort in giving birth.

Major technology found only in hospitals is sometimes needed, and Welsh has been forced in the past to refer a client to a hospital for care, but she said that rarely was the case.

She stresses sound health habits and maintenance for the expecting mother and recommends good communication with their physician and breastfeeding after giving birth.

"I try to teach them that they're responsible for their health," Welsh said.

She has found in attending more than 270 births, including about 170 as the primary birth attendant after starting a midwifery practice in 1980, that control is the primary factor in couples choosing to give birth at home.

"People really want to have control of a birth," she said.

SHAWN PAUL Windisch was born Dec. 19 at his parents' home north of Osawatomie. A friend of Marsha and Gary Windisch shared their baby's birth with them, as well as Welsh and a Gentle Hands assistant. On Wednesday, the midwife visited the Windisch home to make a final check on the baby's health as part of her postpartum service.

Shawn Paul is the couple's fifth child but is the first born at home. For Marsha, the experience was unique and more enjoyable than the hospital births of her other children.

"It just seems like it's a little more special with Shawn Paul," she said. "I'm absolutely sure that if I have another baby, I'll do it this way" as well as recommend home birth to friends.

Marsha said that after she and her husband found a brochure for Gentle Hands Midwifery and decided to consider a home birth. She heard some negativism, a statement not surprising to Welsh.

"I probably had some fears fed to me by friends and relatives," Marsha said, although the views of those acquaintances changed after the Windisch's experience.

Welsh said dealing with negativism about midwifery from some physicians, clients' family members and others was a realism.

"A high percentage of people have a negative attitude about midwifery," she said.

She said that she found a majority of critics had limited knowledge about the profession and the care given by midwives.

Marsha said the advantages of a home birth were numerous, in her view, and included the home atmosphere, no need for an ambulance ride to a hospital and being able to hold the baby for as long as desired after his birth.

"Having my husband here to take care of me instead of nurses was nice, too," she said.

DEANN AND TROY Lyons had a similar experience Oct. 31, 1989, when their son, Austin Keith, was born at their home south of Osawatomie. However, there were some factors that set it apart.

Their house was nearly full of family and friends when DeAnn gave birth, the couple said. DeAnn's father and mother, who adopted their daughter and had no other children, two friends and DeAnn's cousin joined Welsh and an assistant at the birth.

"We just had a party," DeAnn said.

A Halloween prank nearby left the area in which their home is without electricity immediately after their child was born. The group lit candles and enjoyed talking about what had just transpired, Troy said.

DeAnn said Gentle Hands Midwifery was recommended to them by another midwife who was unable to take their case because of time constraints.

"We met Brenda and she really didn't ask us if we wanted her, she just took us," DeAnn said.

Troy, who had two other children before marrying DeAnn, said the education received in classes, books and videotapes provided by Welsh made the home birth a calm, enjoyable experience.

"In a hospital, you're both uptight, and here, Brenda kept us calm," he said. "And you know so much compared to a hospital birth."

DeAnn, who described their relationship with Welsh as friendly rather than professional, said: "If I was to have another baby, I would have Brenda come back."

WELSH CARRIES everything she needs for a birth in her car at all times, including equipment, clothes and health records. An answering service is checked frequently for messages.

The midwife said she tried to maintain a service area within one and one-half hours driving time of Kincaid, but often went further.

"I really get to know the state, and I see a lot of beautiful sunrises," she said.

Welsh, who holds membership in several midwifery and home childbirth organizations, acquired experience and education in midwifery and general health and nutrition in work with physicians and midwives before starting her midwifery practice. She tells all clients before helping them that she isn't a nurse, and a contract is signed which allows her to withdraw from any case in which she thinks an expecting mother's health habits are harmful to the unborn child.

The cost of her service is $850, and couples can expect to pay an additional $250 for vitamins, lab work, physician costs and other expenses.

Because she is not licensed, Welsh said she does not have to have any form of liability insurance for her midwifery service.

"Midwives very rarely get sued," she said.

Kansas has no statutes regarding midwifery, Welsh said, but case law has been supportive of the profession in the past. Some states, she noted, have made midwifery illegal.

"The important part is that the consumers are there, and as long as there are consumers, there will be midwifery," Welsh said.

After her children are graduated from high school, Welsh plans to attend either chiropractic, naturopathic or osteopathic school.

"I probably always will do the midwifery, too," she said.

By helping families in the home birth of children, Welsh said she shares in the joy experienced in each case.

"I have a lot of mental pictures that will last a lifetime," she said.

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