

Approved _____ Date 2-5-91

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Carol H. Sader at _____
Chairperson

1:30 / AM / p.m. on January 31, 1991 in room 423-S of the Capitol.

All members were present except:

Representative Theo Cribbs and Representative Susan Wagle, both excused.

Committee staff present:

Bill Wolff, Research
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Richard Gannon, Executive Director of Kansas Board Healing Arts.
Susan M. Lambrecht, Supervisor of Lucensure, Ks. Board Healing Arts
Steve A. Schwarm, Litigation Counsel; Ks. Board Healing Arts
Lawrence T. Buening, Jr., General Counsel, Kansas Board Healing Arts

Chairperson Carol Sader called meeting to order at 1:35 p.m. with her thanks to the Board of Healing Arts for inviting committee members to tour their office facility.

Chair reported that Vice Chairman Theo Cribbs was happy to receive the card from committee members and sends his thanks. He is improving somewhat and still in therapy.

Representative Galen Weiland introduced his intern, Rochelle Shockley.

Chair turned the meeting over to Richard Gannon, Executive Director of Kansas Board of Healing Arts.

Mr. Gannon thanked members of the committee for their attendance. He offered hand-out (Attachment No. 1). Attachment included list of Board members of Board of Healing Arts, categories of health care providers; chart indicating zero dollars are provided by State General Fund to the Healing Arts Board, the amount of dollars contributed to the General Fund from the Healing Arts Board; an organizational flow chart that indicates the personnel in the department; a sheet on medical terminology.

Mr. Gannon introduced members of his staff, then invited Ms. Susan Lambrecht to explain her duties as Supervisor of Licensure.

Susan M. Lambrecht offered hand-out, (Attachment No. 2), then detailed procedures, i.e., information on application, renewal, licensure. She told of the heavy work load they handle with a small personnel staff.

Steve A. Schwarm, Litigation Counsel, Special Assistant to Attorney General offered hand-out. He detailed information provided, noting how the case load has increased. Investigations encompass medical negligence, gross medical negligence and prescribing issues, insurance and mail fraud cases, drug violations, criminal actions, sexual misconduct and over-utilization of services. He cited examples. Mr. Schwarm discussed concern over current statutes that hamper investigations. There were questions and answers on this point. (Attachment No. 3.)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30 a.m. on January 31, 1991.

Larry Buening, General Counsel for Board of Healing Arts offered hand-out (Attachment No. 4, a memo explaining bill requests made by the Board of Healing Arts.

Draft Bill No. 1 (Attachment No. 5) relating to crimes for unlicensed practice of healing arts, amending current statutes.

Following explanation of request, Rep. Carmody moved to introduce this request as a committee bill, seconded by Rep. Neufeld, motion carried.

Draft Bill No. 2, (Attachment No. 6), concerning physicians' assistants, amending current statutes.

Following explanation, Rep. Samuelson moved to introduce draft No. 2 as a committee bill, seconded by Rep. Praeger, motion carried.

Draft Bill No. 3, (Attachment No. 7), concerning the practice of podiatry, amending current statutes.

After explanation of this request, Rep. Neufeld moved to introduce bill draft No. 3 as a committee bill, seconded by Rep. Bishop, motion carried.

Draft Bill No. 4 (Attachment No. 8), grounds/proceedings for discipline and for denial of licenses, amending current statutes.

After explanation, Rep. Amos moved to introduce bill draft No. 4 as a committee bill, seconded by Rep. Bishop, motion carried.

Draft Bill No. 5 (Attachment No. 9), concerning physical therapy; relating to representation as a physical therapist assistant, amending current statutes.

After explanation Rep. Wiard moved to introduce bill draft No. 5 as a committee bill, seconded by Rep. Bishop, motion carried.

Draft Bill No. 6 (Attachment No. 10), relating to reinstatement of revoked licenses, amending current statutes.

After explanation Rep. Bishop moved to introduce draft No. 6 as a committee bill, seconded by Rep. Amos, motion carried.

Chair adjourned meeting at 2:52 p.m. and members then toured the office complex of the Ks. Board of Healing Arts.

Richard Gax

15 Member Board

Governor Appointed

Staggered Terms

- 5 Medical Doctors: Franklin Bichlmeier, M.D., President
Shawnee Mission, KS
- Donald Bletz, M.D.
Overland Park, KS
- Edward Fitzgerald, M.D.
Wichita, KS
- Joseph Philipp, M.D.
Manhattan, KS
- Kenneth Wedel, M.D.
Minneapolis, KS
- 3 Osteopathic Doctors: John White, D.O., Vice-President
Pittsburg, KS
- Jimmy Buller, D.O.
Parsons, KS
- Cameron Knackstedt, D.O.
Phillipsburg, KS
- 3 Chiropractic Doctors: Tom Greene, D.C.
Great Bend, KS
- Mark Hatesohl, D.C.
Manhattan, KS
- Ronald Zoeller, D.C.
Topeka, KS
- 1 Podiatric Doctor: Irwin Waxman, M.D.
Prairie Village, KS
- 3 Public Members: Harold Guldner
Syracuse, KS
- Graciela Marion
Eudora, KS
- John Petersen
Overland Park, KS

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Attn # 1

TEN CATEGORIES OF HEALTH CARE PROVIDERS
UNDER THE JURISDICTION OF THE
KANSAS STATE BOARD OF HEALING ARTS

Medical Doctors	6,280
Osteopathic Doctors	483
Chiropractic Doctors	727
Podiatric Doctors	100
Physical Therapists	860
Physical Therapy Assistants	404
Physician Assistants	139
Occupational Therapists	519
Occupational Therapy Assistants	69
Respiratory Therapists	903
<u>Permits Issued to MDs and DOs:</u>	
Postgraduates	400
Postgraduate T #s	110
Institutional	228
Visiting Professor	59
 TOTAL:	 11,282

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Attn # 1-2

Amount of Dollars Provided By the State General Fund

To The

Kansas State Board of Healing Arts

\$ 1,100,000.00

BOARD OF HEALING ARTS ANNUAL BUDGET: 1.1 Million Dollars
(From fees generated from licensees/registrants)

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Attn # 1-3

Our Payment to the State General Fund
for Administrative Purposes:

\$200,000.00

Disciplinary Fines Levied this Fiscal
Year to Date:

\$ 12,240.00

Renewal Fines Levied this Fiscal Year
to Date:

\$ 5,500.00

Our Contribution to the
State General Fund:

\$217,740.00

*PHW
1-31-91*

Attn # 1-4

Organization Chart
Kansas State Board of Healing Arts

ADMINISTRATIVE:

Richard G. Gannon
Executive Director

Lawrence T. Buening, Jr.
General Counsel

Pamela Dawes
Executive Secretary

DISCIPLINARY:

Steve Schwarm ✓
Litigation Counsel

Michelle Torres ✓
Disciplinary Counsel

(Investigates and prosecutes
licensees providing substandard
care and nonlicensees for
unauthorized practice.)

LICENSURE:

Susan Lambrecht
Licensing Supervisor

(Identifies substandard
care issues involving
licenses of applicants.)

UNITED GOAL:

To protect the public's health and welfare through licensure, regulation, and enforcement.

*PJW
7-31-91*

attm 1-5

Artery: The study of paintings.

Barium: What you do when CPR fails.

Cesarean Section: A district in Rome.

Colic: A sheep dog.

Coma: A punctuation mark.

Congenital: Friendly.

Dilate: To live long.

Fester: Quicker.

G. I. Series: Baseball games between teams of soldiers.

Grippe: A suit case.

Hangnail: A coat hook.

Medical Staff: A doctor's cane.

Morbid: A higher offer.

Nitrate: Lower than the day rate.

Node: Was aware of.

Outpatient: A person who has fainted.

Post-Operative: A letter carrier.

Protein: In favor of young people.

Secretion: Hiding anything.

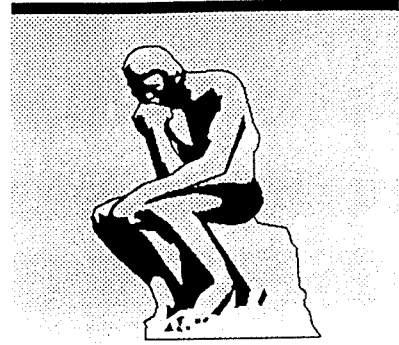
Serology: A study of English Knighthood.

Tablet: A small table.

Tumor: A extra pair.

Urine: Opposite of you're out.

Varicose Veins: Veins which are very close together.



Medical Terminology

*PNW
1-31-91*

Attn 1-6

Office of

State of Kansas

RICHARD G. GANNON, EXECUTIVE DIRECTOR
LAWRENCE T. BUENING, JR., GENERAL COUNSEL
STEVE A. SCHWARM, LITIGATION COUNSEL
SUSAN LAMBRECHT, LICENSING SUPERVISOR



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

Board of Healing Arts

MEMORANDUM

TO: PUBLIC HEALTH AND WELFARE COMMITTEE MEMBERS
FROM: SUSAN M. LAMBRECHT, SUPERVISOR OF LICENSURE
DATE: JANUARY 31, 1991
RE: LICENSING SECTION STAFF AND RESPONSIBILITIES

Before providing some basic information about the licensing section of the Board of Healing Arts, I would like to let you know we appreciate your interest in the office and taking the time out of your busy schedule to visit. Please feel free to ask questions of anyone in the licensing section.

The licensing section is responsible for receiving all new applications for licensure/registration as well as updates on the status of those individuals and also the renewal of all licensees and registrations (more than 12,000). Our goal is to protect the public and see that only qualified persons are licensed/registered.

The Board regulates ten (10) professions, Medical Doctors (MD), Osteopaths (DO), Chiropractors (DC), Podiatrists (DPM), Physician Assistants (RPA), Physical Therapists (RPT), Physical Therapy Assistants (PTA), Occupational Therapists (OT), Occupational Therapy Assistants (OTA), Respiratory Therapists (RT), Respiratory Therapy Students and there are also four (4) dentists that are registered with the Board as anesthesiologists.

There are six (6) employees and one (1) supervisor in the licensing section to process more than twenty-five (25) types of applications and handle all phases of the licensing/registration process.

There is a tremendous responsibility on each employee to review, process and maintain files since only the DCs and DPMs are personally interviewed by Board members of the same profession before being licensed. Unless there is a problem or concern regarding the applicant, all other licensees and registrants are granted a permanent license on the basis of the staff listing which is approved by the Board twice a year, in June and December. Temporary permits for most of the professions can be issued pending Board approval if the application is complete and there is no derogatory information.

If there is a concern regarding licensure requirements or credentialing, the application is prepared for submission at the next Board meeting for their review and Board action.

When there are concerns regarding malpractice insurance, alcohol or drug dependency, depression etc., a copy of the application and supporting documentation is provided to the legal section for review and investigation to determine eligibility for licensure. The legal section is responsible for receiving and processing complaints, conducting investigations and handling formal disciplinary proceedings.

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MEMBERS OF BOARD
FRANKLIN G. BICHLMEIER, M.D., PRESIDENT
JOHN P. WHITE, D.O., VICE PRESIDENT
PITTSBURG

DONALD B. BLETZ, M.D., OVERLAND PARK
JIMMY V. BULLER, D.O., PARSONS
EDWARD J. FITZGERALD, M.D., WICHITA
PAUL T. GREENE, JR. D.C., GREAT BEND
MARK HATESOHL, D.C., MANHATTAN
GLENN I. KERBS, DODGE CITY

CAMERON D. KNACKSTEDT, D.O., PHILLIPSBURG
GRACIELA MARION, EUDORA
JOSEPH PHILIPP, M.D., MANHATTAN
IRWIN WAXMAN, D.P.M., PHARIS VILLAGE
KENNETH D. WEDEL, M.D., MINNEAPOLIS
RON ZOELLER, D.C., TOPEKA

LICENSING SECTION STAFF

The licensing section consists of the following six (6) employees and licensing supervisor:

Mary Ann Taylor, OA IV - prepares and finalizes original files, assists in ordering and proctoring exams, sends out grade results and license certificates for the MDs, DOs, DCs, DPMs, PAs, PTs, and PTAs.

Marjorie Savoy, OA III - receives requests for applications, duplicate licenses for name changes etc., sends application packets and processes applications for MDs, DOs, DCs, DPMs, PTs, PTAs and PAs.

Pat Osborn, OA III - is responsible for processing all renewal applications for licensees and registrants (all ten professions) and also processes license status changes throughout the year.

Rosemary Jennings, Keyboard Operator II - does data entry to assist all in the licensing section, address changes, processes notifications of deceased as received from newspaper clipping service, AMA, associations, etc.

Gayle Lambrecht, OA II - (currently on maternity leave) is the receptionist and receives phone calls for the licensing, disciplinary and administrative section of the office, also receives people in the office, sends and processes applications for OTs, OTAs, RTs and Student RTs and sends publications upon request.

Gerrie Lippert, OA III - is my secretary in charge of the licensing section in my absence, is backup to the receptionist on phones and receiving people in the office, processes educational licenses, receives, processes and issues licenses for postgraduate permits and temporary (T#) numbers.

Susan Lambrecht, Supervisor of Licensure - oversees the above positions and does the final review on all applications.

Present temporary employees are Cory Jager replacing Gayle Lambrecht while on maternity leave, and Donna Blecha assisting with renewals, mail, filing and phones.

APPLICATION INFORMATION

The following is information regarding applications that are processed for licensees and registrants.

More than 25 types of applications are processed for licensees/registrants.

MD - endorsement (end) and temporary permits - 200 added in June 90, 167 added in Dec. 90
MD - exam (exm)- June 90, 41 exams only 5 lic.-Dec. 90, 40 exams, results pending
DO - end and temporary permits - 21 added in June 90, 28 added in Dec. 90
DO - exm - June 90, 8 exams only 2 lic. - Dec. 90, 2 exams, results pending
DC - end and oral interview - 17 added June 90, 29 added Dec. 90
DPM - end and oral interview - 2 added Dec. 90
DPM - exm and oral interview - 2 added June 90
DPM - preceptorship - 12 licensed
Postgraduate - 400
Postgraduate - (T#, 1 yr permit - no grades) 112
Educational - 18 licenses issued
Institutional - Approximately 38 new and renewed
Physician Assistants - 15 added June 90, 4 in Dec.
Visiting Professor - 59 total licensed
Out-Of-Phase - 74 total licensed

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thesiologists DDS - (only 4 registered)
- end and temporary permits - 18 added June 90, 20 Dec.
PT - exm - 21 added in June 90, 22 added in Dec. 90
PTA - end and temporary permits - 5 added in June 90, 6 added in Dec. 90
PTA - exm - 25 in June 90, 30 in Dec. 90
RT - end and temporary permits - 75 in June 90, 68 in Dec. 90
Student RT - end - 259
OT - end and temporary permits - 44 in June 90, 32 in Dec. 90
OTA - end and temporary permits - 8 in June 90, 14 in Dec. 90

Duplicate Licenses/Name Changes
Duplicate Renewal Receipt Cards

Renewals processed annually for: MD, DO, DC, DPM, IL (every 2 yrs), PT, PTA, OT, OTA, RT, and PA.

Reinstatements for: MD, DO, DC, DPM, PT, PTA, OT, OTA, RT, and PA.

License status verifications for all professions are requested by licensee, hospitals, state agencies and boards, DEA, etc., are processed per phone and written request.

Certification of grades are processed as requested by licensees and state boards for fee of \$15.00.

Publications: Breast Brochures, Rosters, Screening Panel Lists and Rules and Regulations are sent upon request.

License Status Changes: A large volume of requests are received and processed regarding status changes.

Address changes/deceased notifications are processed as received.

Processing of exams: Ten (10) exams are given per year. Two for MDs and DOs, 2 DCs and 2 DPMs in June and December. PT and PTA exams are given twice a year in July and November.

Corporations: Names are approved and certificates issued for licensees as requested. Annual reports received and filed from Secretary of State's office.

Per Log of application requests for the 3-week period of 1-8-91 thru 1-29-91, 97 endorsement applications were sent out per phone and written requests received, 14 exam applications, 21 additional information letters, 16 applications were received and reviewed. (Marjorie).

The Desert Shield crisis has created additional work because of status changes and request for licenses to be placed in the Military File. (21 requests processed)

RENEWAL INFORMATION

The licensing staff does a tremendous job during the renewal periods of May thru August and December thru February and all employees pitch in and help. Seven (7) full time temporary employees worked in the licensing section from April thru August, approximately 2,686 hours which include 535 hours for Manpower data entry assistance. In addition to those hours the permanent licensing staff was paid for 557 overtime hours and additional hours were accumulated as leave rather than pay. Attachments 1 and 2 list recent statistics regarding the renewals for licensees and registrants. Renewals, Second notices and Orders of Cancellation require the assistance of temporary help to meet deadlines and prevent disastrous backlogs on daily work. The temporary help assisted all staff in the licensing section.

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Attm. #2-3

use of previous legislative changes that have added job responsibilities to the Healing Arts and increased work loads, two (2) full time positions have been required in the Licensing Section. Changes include continuing education hours for all professions, verification of malpractice insurance, additional licenses/professions (OTs, OTAs, RTs, Student RTs, Educational licenses, and Temporary Postgraduate licenses and DPM Preceptorship licenses have been added. Temporary help are an asset but because of detailed work, a large portion of duties cannot be assigned to them.

PHONE CALLS

Over 350 phone calls are received per day during the renewal period, up to 200 calls may be received on a normal day. We have six (6) incoming lines and two (2) outgoing lines and all calls are handled by Gayle and by Gerrie as backup. These calls are detailed and lengthy and are answered for the licensing section as well as the administrative section and disciplinary and legal section. A phone survey was conducted and the proposal with four options (while an automated phone system would mean a significant budget increase, it is much less than the cost of a human attendant and provides greater improvement in service to callers and a greater saving of time for other agency personell) has been received for review and consideration regarding an automated phone system from Cal Berggren, Department of Administration, Division of Information Systems and Communication. This would also allow time for the two people answering the phone to perform other job duties to alleviate some of the temporary help or overtime. Options varied from an increase in phone bill of \$88.00 to \$558.00 monthly on the four proposals.

MAIL

During the renewal period we have approximately 600 pieces of mail per day and 200 pieces of mail per day on a regular basis. All mail is date stamped and processed for those in the office by the receptionist. During the renewal period May thru August the mail is picked up at the main Post Office to avoid late delivery and allow earlier processing of the mail in the office. New Postal regulations requires additional sorting of mail by our staff.

FAXED COPIES

A FAX machine was purchased by the office August 3, 1990 to provide service to licensees as well as the staff. However, it has increased the work load as request for applications or information is requested to be sent or received by FAX, to be processed immediately to meet deadlines. Board policy regarding FAX copies pertaining to all documents received in the office is being implemented. Presently, documents in support of initial applications are requested to be followed by an original in seven working days.

COMPUTER

Data entry and word processing has been added to each position description and everyone continues to learn on the computer system (AS/400) installed in May of 1990, at the beginning of a hectic renewal period. The computer continues to be a challenge as there are still bugs to be worked out. The staff does a tremendous job and is always willing to work the extra hours. Two (2) full time employees are desparately needed in the licensing section to keep up with the workload.

VACATIONS

Vacations are NOT allowed from May 1 thru the 2nd week of August because of renewals. This creates morale problems as employees are not able to take off (especially with school age children) during summer months. Overtime is accumulated but unable to be used.

Your support regarding an appropriation bill for the Board of Healing Arts which would include additional employees would be greatly appreciated.

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1-31-91

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n, thank you for your time if you have any questions : ding licensing or
stration, please feel free contact me.

- Attachment 1 - License Renewal Statistics
- Attachment 2 - Registrant Renewal Statistics
- Attachment 3 - (a) 1957 Kansas City Star - New Doctors
(b) 1957 Kansas City Star - New Boards
- Attachment 4 - Narrative Information From The Budget Report

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Attn# 2-5

LICENSE
RENEWAL STATISTICS

<u>Renewed</u>	<u>MD</u>	<u>DO</u>	<u>DC</u>	<u>DPM</u>	<u>Totals</u>
1990(8-7-90)	5812	428	675	94	(+85) 7009
1989	5755	417	649	103	
<u>Cancelled By Request</u>					
1990	125	10	8	2	145
1989	175	16	16	1	208
<u>Cancelled Non-Renewal</u>					
1990	KS 344(126)	KS 42(20)	KS 46(22)	KS 10(3)	(+40) 442
1989	309	46	44	3	
<u>Deceased</u>					
1990					
1989					
<u>Licenses to be renewed</u>					
<u>until Sept '90 per</u>					
Hearings as requested					
in response to Orders					
of Cancellation mailed					
8-7-90 (171).					
1990					

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Attachment 2

REGISTRANT RENEWALS FOR 1990 AND 1991 AS OF JANUARY 29, 1991

<u>PROFESSION</u>	<u>1990</u>	<u>1991</u>	<u>DIFFERENCE</u>
PT	747	735	-12
PTA	341	374	+33
PA	110	107	-3
OT	390	377	-13
OTA	40	43	+3
RT	680	665	-15
<hr/>			
TOTAL	2,308	2,301	-7

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Attn # 2-7

Agency Gears for New Doctors.

By Bill Matson
(A Member of The Star's Staff.)

ALMOST unknown to the general public, a 12-room suite of offices in the new Brotherhood building in Kansas City, Kansas, is the hub of the Kansas system of licensing medical doctors, osteopaths and chiropractors.

The office is maintained by the Kansas board of healing arts for its secretary, Dr. Francis J. Nash, a Kansas City, Kansas, gynecologist and obstetrician, and his staff of two women.

There is where the records of the more than 5,000 doctors, osteopaths and chiropractors licensed to practice in the state are kept.

Scrutiny on Practice

As the man charged with administrative responsibility of the board and the task of enforcing the healing arts act, Dr. Nash supervises the granting of about 200 new licenses a year and the annual renewal for previous licensees.

Dr. Nash, who maintains his practice on the fourth floor of the building, spends at least one full day a week in the board's third-floor office.

He is now busy preparing for the semi-annual examinations for this year's crop of medical school graduates to be held June 13 to 15 at the University of Kansas Medical Center. About 100 fledgling doctors have applied to take the examination.

In addition to granting doctors licenses through examination, the board annually also grants licenses to about 100 doctors from other states seeking to practice in Kansas. These are granted by endorsement after analyzing the applicants' personal and professional backgrounds.

Must Meet Standards

This is not an automatic procedure, such as the reciprocity system now in place in some



LICENSES TO PRACTICE MEDICINE in Kansas are sought in applications being studied by Dr. Francis J. Nash, secretary of the Kansas Board of Healing Arts, and Mrs. Alice Vandaveer, assistant secretary, at the board's Kansas City, Kansas, office in the new Brotherhood building. Dr. Nash, a Kansas City, Kansas, obstetrician and gynecologist, supervise examinations to be taken by about 100 of this year's graduating medical students June 13 to 15 at the University of Kansas Medical Center.

states," Doctor Nash said. "First we make certain the state granting the original license has standards as high as our own."

Dr. Nash's signature probably has become the best known of any Kansas doctor as the result of his five years as a member of the board. It appears on all licenses, and on an average of 15,000 pieces of mail a year.

At the end of the last fiscal year, the board had licensed or renewed the licenses of 5,139 practitioners of the healing arts. Dr. Nash said. Of these, 3,462 were medical doctors, 1,257 chiropractors and 420 osteopaths. Of the latter group, 165 had also qualified for licenses in medicine and surgery.

In its five years of existence,

initial recommendation by the chiropractic branch.

Another reason is the requirement that all applicants pass an examination in basic sciences, administered by the state board of basic science examiners.

Dr. Nash said it was his understanding that few chiropractic applicants have taken the basic sciences examination.

Aided By Staff of Two.

Assisting Dr. Nash in the Kansas City, Kansas, office are Mrs. Alice Vandaveer, assistant secretary, of 717 North Eighth street, and Miss Sandra Kepler, 2566 Hiawatha street.

Other members of the board of healing arts are:

Stanley E. Davis, D. O., Columbus, president; Joseph M. Samskey, D. C., 1120 North Washing-

ton boulevard, Kansas City, Kansas, vice-president; Edmer Beebe, M. D., Olathe; L. L. Laffey, M. D., 2606 Ann, Kansas City, Kansas; Richard Gibson, D. O., Winfield; Robert H. Moore, M. D., Lansing; Richard E. Speirs, M. D., Dodge City; Raymond R. Wallace, D. O., Wichita; Dean L. Wise, D. C., Wichita; and Rex A. Wright, D. C., Topeka.

Attachment 3a

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1-31-91
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KL Star July 1, 1957

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Attachment 3b

TWO NEW BOARDS NAMED IN KANSAS

Healing Arts Groups, Except
That of Chiropractors,
Appointed.

THEIR SUIT UP JULY 27

Men From Four State Schools
Give Examinations in
Basic Sciences.

By Robert H. Clark.
(The Star's Topeka Correspondent.)

Topeka, July 1.—Members of the new healing-arts board and the board of basic science examiners, under new legislation, were appointed today by Gov. George Docking, with the exception of the three chiropractic members of the healing arts board.

The governor could not make those three appointments because of an injunction suit filed by a group of chiropractors who contend they do not have "equal representation" on the examining and licensing board.

Five, Three and Three.

The law provides for five medical doctors, three osteopathic physicians and three chiropractors, each group to examine applicants in its separate field.

The suit is to be heard July 27 in the Shawnee County District court. The board, however, can function in examining and licensing applicants for medical and osteopathic practice, regardless of the injunction action.

Members of the Healing
Arts board:

Medical Doctors—Louis L. Bretzette, Kansas City, Kansas, for a 2-year term; Robert H. Moore, Lansing, a 3-year term; Francis J. Nash, Kansas City, Kansas, a 3-year term; William P. Callahan, Wichita, a 4-year term, and Billens O. Grading, Halstead, for four years.

Osteopathic Physicians—Stanley Davis, Columbus, a 2-year term; Richard Gibson, Winfield, for three years, and J. E. Donley, Kingman, a 4-year term.

Specialists in Fields.

Under the new medical licensing law first applicants in all fields must show they have passed the basic science examination, including the fields of bacteriology, anatomy, chemistry, pathology and physiology. Members of that board are required to be specialists in their fields and professors of state schools.

The board members:

Dr. Merle E. Brooks, Emporia State Teachers college, bacteriology, for a 1-year term.

Dr. E. J. Wimmer, Kansas State college, anatomy, for a 2-year term.

Dr. L. C. Heckert, Pittsburg State Teachers college, chemistry, for three years.

Dr. Robert E. Stowell, University of Kansas, pathology, a 4-year term.

Dr. Edwin Martin, Fort Hays State college, physiology, for four years.

NARRATIVE INFORMATION FROM THE BUDGET REPORT

The Kansas Board of Healing Arts licenses and regulates medical, osteopathic, and chiropractic doctors and issues temporary permits, special permits, institutional, temporary educational, and visiting professor licenses under the Healing Arts Act. The Board also administers the provisions of the Kansas Physical Therapist Act by registering physical therapists and certifying physical therapist assistants, and the statutes for the examination and licensure of podiatrists under the Podiatry Act. Physician's assistants, occupational therapists, occupational therapist assistants and respiratory therapists are also registered by the Board which annually licenses, registers and certifies more than 12,000 individuals.

Each licensee and registrant, except the physical therapy assistants, is required to supply proof of continuing education at the time of renewal or reinstatement.

Additionally, each licensee and registered physical therapist must carry professional liability insurance and participate in the Kansas Health Care Stabilization Fund if they provide health care in Kansas.

A licensee or registrant may be censured or the license or registration revoked, suspended or limited when such action is deemed necessary after receipt of a written complaint, completion of investigation and a hearing before a panel of the Board, the Board, or an Administrative Hearing Officer.

STATUTORY HISTORY:

The Kansas Board of Healing Arts was established by the 1957 legislature. The Board is a composite of the former medical, osteopathic and chiropractic examining boards. The Board consists of five (5) members who hold the degree of Doctor of Medicine, three (3) who hold a degree of Doctor of Osteopathy, three (3) who hold a degree of Doctor of Chiropractic, one who holds a degree of Podiatric Medicine and three lay members. The Board Office is located at 235 S. Topeka, Topeka, KS 66603.

Attm # 2-10
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In 1975, the registration of the physician's assistants came under the direction of the Board of Healing Arts. A new law was enacted in 1978 giving the Board authority to charge a registration and renewal fee, require the applicant to have passed an examination prior to being registered, to remove the name of a physician's assistant from the register and to refuse to register an applicant. In 1989, the Physician Assistant Council was created by statute to advise the Board on physician assistant issues.

In 1986, the registration of occupational therapists, occupational therapy assistants and respiratory therapists came under the direction of the Board of Healing Arts.

The requirement of continuing education for all licensees and registrants, except the physical therapy assistant,, became effective July, 1978. Rules and regulations were promulgated setting forth specific requirements for all professions and proof of the hours of continuing education are required with the annual renewal or reinstatement of all licensees and registrants.

A questionnaire-type renewal form is used for all professions to gather health data which is also furnished to the Kansas University School of Medicine and the Department of Health and Environment. Statistics are analyzed and made available to the legislature.

There were 244 complaints, 128 malpractice petitions and 63 hospital adverse finding reports concerning licensees or registrants of the Board in FY90. These adverse finding reports are submitted when peer review committees of the hospitals make an adverse finding concerning a licensee or registrant. These are submitted according to KSA 65-28121 and KSA 65-4923 (a)(2). The Disciplinary Counsel, under supervision of the Litigation Counsel, initially investigates, or causes to be investigated, complaints against licensees or registrants of the Board and applicants with past disciplinary problems. After the investigation is completed,, the case may either be submitted to a review committee for each branch of the Healing Arts, be referred to a consultant for an expert opinion, or may go directory to the Board. The Executive Director, in consultation with the General Counsel, decides what action to take on complaints in the case of an emergency situation in the interim between Board meetings.

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The Board is authorized to issue seven kinds of licensure and permits under the Healing Arts Act:

- 1) Regular licensure was authorized in 1957 for medical, osteopathic and chiropractic doctors.
- 2) Temporary permits before regular licensure were authorized by the 1957 legislature.
- 3) Postgraduate training temporary permits were authorized in 1969 to permit the practice of any person engaged in a full-time approved residency program.
- 4) Institutional licenses were authorized in 1969 to permit a graduate of an accredited school to practice in a state institution within the Department of Social and Rehabilitation Services or the State Department of Corrections.
- 5) Visiting Professor temporary license was created in 1976 to enable a person holding a license in another country or state to be employed in the education of medical personnel or for postgraduate education or continuing education.
- 6) Special permit was enacted in 1978 to permit the "out-of-phase" doctor to practice under the sponsorship of a licensed practitioner in a rural area prior to entering a postgraduate training program.
- 7) Educational licensure permits, authorized in 1989.

The Board of Healing arts administers examinations each year as follows: two times in medicine and surgery, two times in chiropractic, two times in podiatry, and two times in physical therapy and physical therapy assistants. All applicants must also show proof of proficiency in the basic sciences.

The Board holds six regular meetings, four (one-day) meetings and two (two-day) meetings. Special meetings may be called in addition to the regular meetings as needed by the Board president.

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KANSAS STATE BOARD OF HEALING ARTS
LITIGATION & DISCIPLINE SECTION

INFORMATIONAL STATEMENT
FOR
KANSAS HOUSE OF REPRESENTATIVES
PUBLIC HEALTH AND WELFARE COMMITTEE

Steve A. Schwarm
Litigation Counsel
Special Assistant Attorney General

January 31, 1991

The Litigation and Discipline Section of the Kansas State Board of Healing Arts is charged with the responsibility to receive, initiate investigations and pursue the appropriate legal remedy to resolve the alleged violation or complaint for matters within the purview of the Kansas Healing Arts Act and associated acts under the jurisdiction of the Board.

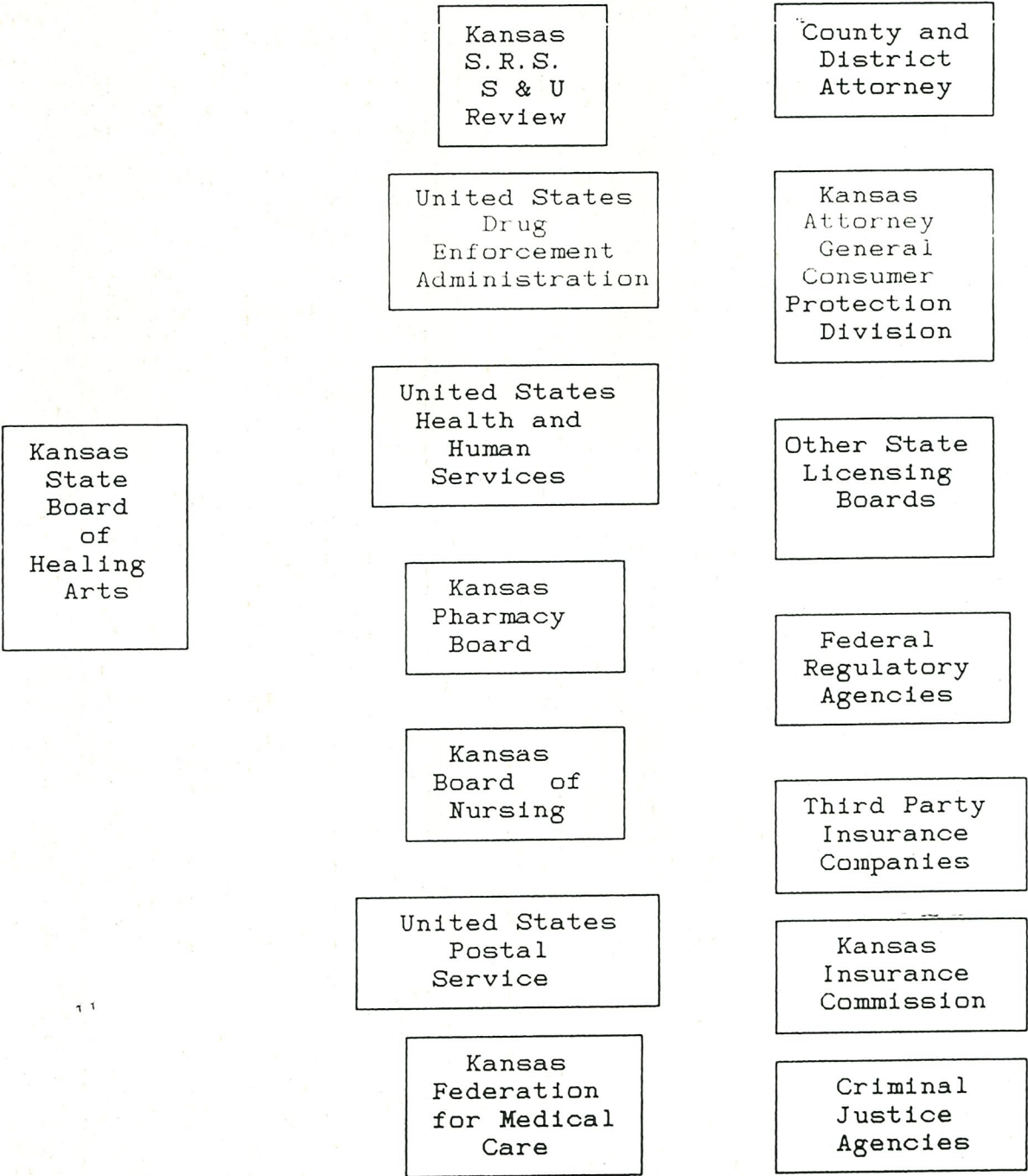
The section coordinates all information provided to the Board that relates to the quality of medical or health care provided by a licensee or registrant of the Board. This includes complaints from patients, other practitioners, state and federal licensing, regulatory and enforcement agencies, hospitals and lawsuits which include an allegation of medical malpractice. A practitioner profile is now maintained with cross reference to these different documents. All Adverse Finding Reports and Malpractice Petitions are now reviewed just as complaints had been in the past. The section also reviews all applications in which a practitioner has been disciplined (Licensing or hospital) or the subject of a malpractice action. In addition the section receives complaints on individuals who "practice" beyond the scope of their license or individuals who practice with no license at all.

Investigations encompass ordinary medical negligence, gross medical negligence and prescribing issues which require outside expert consultations, insurance and mail fraud cases, drug violations involving controlled substances, criminal actions, sexual misconduct and over-utilization of services.

Investigations are currently underway in Missouri, Oklahoma, Nebraska, California, Illinois and Ohio. One case involves 24 patients or witnesses in Missouri.

The section conducts investigations which touch every county, region, private or public institution, urban or rural area and citizen in Kansas.

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State of Kansas

Office of

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Kansas State Board of

Healing Arts

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TOPEKA, KS 66603
913-296-7413

Board of Healing Arts

M E M O R A N D U M

To: House Committee on Public Health and Welfare
From: Lawrence T. Buening, Jr. *LTB*
General Counsel
Re: Healing Arts Bill Requests
Date: January 31, 1991

The following is a summary of the various draft bills prepared by the Kansas State Board of Healing Arts which will be presented to the House Committee on Public Health and Welfare at its meeting on January 31, 1991 with a request that such be introduced by the Committee for action during the 1991 Legislative Session:

DRAFT BILL NO. 1. This bill would specify three separate crimes for the unlicensed practice of the healing arts. Currently, the only penalties for unlicensed practice are contained in K.S.A. 65-2862. K.S.A. 65-2803 and 65-2067 presently prohibit the unlicensed practice but make no provisions for penalties or criminal sanctions. Therefore, it is proposed that these two statutes be amended in their entirety. In lieu of the present language of K.S.A. 65-2803, Section 1 of the proposed bill would

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make the unlicensed practice a Class B misdemeanor. This is the same classification of crime as provided for a battery under K.S.A. 21-3412. Section 2 would make the intent to practice without a license a Class C misdemeanor which is the same as that provided for an assault pursuant to K.S.A. 21-3408. Section 3 is a new section and would make the unlicensed practice in a manner which causes personal injury a Class C felony. This is the identical classification as that provided for in K.S.A. 21-3414 for aggravated battery.

DRAFT BILL NO. 2. The minor changes sought to K.S.A. 1990 Supp. 65-2896a and 65-2896b are merely to correct obvious errors that were made in the original legislation in citations to various subsections. Substantial amendments were made to these two statutes during the legislative process by the 1989 Legislature. As a result of various deletions from the original bill as it was drafted, various sections and subsections were renumbered or relettered. As a result, the two citations noted in the proposed bill were overlooked.

DRAFT BILL NO. 3. This bill deals with the podiatry statutes which are also administered by the Board. It has resulted from the Board's desire to move away from a state prepared examination and toward a national uniform licensing examination called "PM Lexis".

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PM Lexis dates are set by the testing service and may not always be held at the same time as the examinations the Board administers under the Healing Arts Act. Therefore, in Section 1, it is proposed that the first sentence of K.S.A. 1990 Supp. 65-2003 be deleted. There is not an exact uniformity between the terminology used by PM Lexis in the various subjects the test covers versus the specified subjects contained in K.S.A. 1990 Supp. 65-2004. While the Board is satisfied the PM Lexis covers these presently designated statutory subjects, there are concerns about differences in the terminology used. Therefore, Section 2 of the bill would propose to delete specific references to particular subjects. Section 3 of the bill would make grounds for disciplinary action against a podiatrist almost identical to that contained in K.S.A. 1990 Supp. 65-2836 for the three branches of the healing arts.

DRAFT BILL NO. 4. The first three sections of this proposed bill deal with the renewal process and the denial for cause of applications. Section 1 would repeal K.S.A. 65-2805 which presently provides that the Board may refuse a license for the same reason it may revoke one. Section 2 would amend K.S.A. 1990 Supp. 65-2809(d) and (e) to delete any reference to revocation for simply failing to renew or allowing a license to be cancelled. Section 3 would then incorporate denial of a license to have the same

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grounds as that for revocation or other disciplinary action. This would take the place of the repealed language contained in K.S.A. 65-2805. Section 3 of the bill would also delete failure to pay renewal fees and provide required continuing education as grounds for revocation. It is felt K.S.A. 1990 Supp. 65-2809 already provides adequate authority to cancel a license should a licensee fail to meet either of these two requirements. Section 3 would also return to the Board the authority to determine whether a licensee should undergo a mental or physical examination or drug screen. Section 4 amends the definition of unprofessional conduct as set forth in K.S.A. 1990 Supp. 65-2837(b)(17) and (20). Also Section 4 contains definitions for the words "license" and "licensee" to enable the Board to take disciplinary action against people holding special permits, temporary permits or other classification of credentialing other than a permanent license. Section 5 would make the Kansas Administrative Procedure Act inapplicable to certain actions of the Board such as approval of professional schools, cancellation for non-renewal, etc. It should be noted that K.S.A. 1990 Supp. 65-2838 would remain in effect and would continue to make the Kansas Administrative Procedure Act applicable to all disciplinary actions.

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DRAFT BILL NO. 5. This bill deals with the statutes involving physical therapy. Section 1 would also make it a misdemeanor for a person to use or hold oneself out as a physical therapist assistant unless the person has received a valid certification from the Board. Section 2 would give the Board injunctive powers to restrain individuals from violating the physical therapy laws.

DRAFT BILL NO. 6. This bill deals with two statutes, K.S.A. 65-2844 which provides for reinstatement of revoked licenses and K.S.A. 65-2846 pertaining to assessment of costs in proceedings conducted under the Kansas Administrative Procedure Act. This proposal would result in the amendment in the entirety of both statutes.

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HEALING ARTS DRAFT BILL NO. 1

_____ Bill No. _____

AN ACT concerning the healing arts; relating to crimes for unlicensed practice of the healing arts; amending K.S.A. 65-2803 and K.S.A. 65-2867 and repealing the existing sections; also repealing K.S.A. 65-2868.

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

Section 1. K.S.A. 65-2803 is hereby amended to read as follows: ~~No person shall engage in the practice of any branch of the healing arts, as hereinafter defined, unless he shall have obtained from the board a license for that purpose.~~ (a) It shall be unlawful for any person who is not licensed under this act or whose license has been revoked or suspended to engage in the practice of the healing arts as defined in this act.

(b) Any violation of this section is a class B misdemeanor.

Section 2. K.S.A. 65-2867 is hereby amended to read as follows: ~~The opening of an office for the practice of the healing arts, the announcing to the public in any way the intention to practice the healing arts, the use of any professional degree, or designation, or any sign, card, circular, device, or advertisement as a practitioner, or as a person skilled in the same, shall be prima facie evidence of engaging in the practice of said healing arts as defined in this act.~~ (a) It shall be unlawful for any person who is not licensed under this act or whose license has been revoked or suspended to open or maintain an office for the practice of the healing arts as defined in this act or to announce or hold

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out to the public the intention, authority or skill to practice the healing arts as so defined by the use of any professional degree or designation, sign, card, circular, device, advertisement or representation.

(b) Any violation of this section is a class C misdemeanor.

New Section 3. (a) It shall be unlawful for any person who is not licensed under this act or whose license has been revoked or suspended, to engage in the practice of the healing arts as defined in this act and which either:

(1) Inflicts great bodily harm to any person;

(2) causes any disfigurement or dismemberment to or of any person; or

(3) is done in any manner whereby great bodily harm, disfigurement, dismemberment or death can be inflicted.

(b) Any violation of this section is a class C felony.

Section 4. K.S.A. 65-2803, 65-2867 and 65-2868 are hereby repealed.

Section 5. This act shall take effect and be in force from and after its publication in the statute book.

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HEALING ARTS DRAFT BILL NO. 2

_____ Bill No. _____

AN ACT concerning physicians' assistants; amending K.S.A. 1990 Supp. 65-2896a and 65-2896b and repealing the existing sections.

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

Section 1. K.S.A. 1990 Supp. 65-2896a is hereby amended to read as follows: (a) No person's name shall be entered on the register of physicians' assistants by the state board of healing arts unless such person has:

(1) Presented to the state board of healing arts proof of graduation from an accredited high school or the equivalent thereof; and

(2) Presented to the state board of healing arts proof that the applicant has successfully completed a course of education and training approved by the state board of healing arts for the education and training of physicians' assistants, which course of education and training shall consist of at least two years of postsecondary education and training and shall be ~~substantially in conformity with~~ equivalent to the education and training programs for physicians' assistants approved by the state board of regents, or presented to the state board of healing arts proof that the applicant has acquired experience while serving in the armed forces of the United States which experience meets minimum requirements established by the state board of healing arts;

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(3) passed an examination approved by the state board of healing arts covering subjects incident to the education and training of physicians' assistants; and

(4) presented to the state board of healing arts a request signed by the applicant's proposed responsible physician on a form provided by the board which shall contain such information as required by rules and regulations adopted by the board.

(b) The board may refuse to enter a person's name on the register of physicians' assistants upon any of the grounds for which the board may remove a person's name from such register.

(c) A physician's assistant shall at the time of initial registration and any renewal thereof present to the board of healing arts the name and address of such person's responsible physician. Whenever a physician's assistant shall cease to be employed by the responsible physician, such responsible physician shall notify the state board of healing arts of such termination. Whenever a physician's assistant shall seek to obtain a new responsible physician prior to the renewal of the physician's assistant's annual registration, such proposed responsible physician shall notify the state board of healing arts of such prospective employment and shall provide a request as required by subsection (a) ~~(3)~~ (4). All such notifications shall be given to the state board of healing arts as soon as practicable but not be less than 10 days prior to the prospective date of employment.

(d) The state board of healing arts shall require every physician's assistant to submit with the renewal application

evidence of satisfactory completion of a program of continuing education required by the state board of healing arts. The state board of healing arts by duly adopted rules and regulations shall establish the requirements for such program of continuing education as soon as possible after the effective date of this act. In establishing such requirements the state board of healing arts shall consider any existing programs of continuing education currently being offered to physicians' assistants.

(e) A person whose name has been entered on the register of physicians' assistants prior to the effective date of this act shall not be subject to the provisions of subsection (a), unless such person's name has been removed from the register of physicians' assistants pursuant to the provisions of K.S.A. 65-2896b and amendments thereto.

Section 2. K.S.A. 1990 Supp. 65-2896b is hereby amended to read as follows: (a) The board of healing arts may remove a person's name from the register of physicians' assistants for any of the following reasons:

(1) The person whose name is entered on the register of physicians' assistants requests or consents to the removal thereof;

(2) the board of healing arts determines that the person whose name is entered on the register of physicians' assistants has not been employed as a physician's assistant or as a teacher or instructor of persons being educated and trained to become physicians' assistants in a course of education and training approved by the state board of healing arts under K.S.A. 65-2896a

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and amendments thereto at some time during the five years immediately preceding the date of such determination;

(3) if the board determines, after notice and opportunity to be heard, in accordance with the provisions of the Kansas administrative procedure act, that a physician's assistant has violated any provision of K.S.A. 65-2896 to 65-2897a, inclusive, and amendments thereto, or any rules and regulations adopted pursuant thereto; or

(4) if the board determines, after notice and opportunity to be heard, in accordance with the provisions of the Kansas administrative procedure act, that the request by the proposed responsible physician pursuant to subsection ~~(b)~~(a)(4) of K.S.A. 65-2896a and amendments thereto should not be approved.

(b) The board of healing arts may remove a person's name from the register of physicians' assistants or may refuse to place a person's name on the register of physicians' assistants, if the board determines, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, that a physician's assistant has exceeded or has acted outside the scope of authority given the physician's assistant by the responsible physician or by this act.

Section 3. K.S.A. 1990 Supp. 65-2896a and 65-2896b are hereby repealed.

Section 4. This act shall take effect and be in force from and after its publication in the statute book.

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HEALING ARTS DRAFT BILL NO. 3

_____ Bill No. _____

AN ACT concerning the practice of podiatry; amending K.S.A. 1990 Supp. 65-2003, 65-2004 and 65-2006 and repealing the existing sections.

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

Section 1. K.S.A. 1990 Supp. 65-2003 is hereby amended to read as follows: 65-2003. (a) ~~Examinations for a license to practice podiatry in this state shall be held at the same time and place as the examinations held by the board under the Kansas healing arts act.~~ All applicants for a license to practice podiatry under the provisions of this act: (1) Shall have attained the age of 21 years; (2) shall have completed at least four years of instruction in, and be graduates of, a school of podiatry which is recognized as being in good standing by the board; and (3) commencing with applicants for a license to be granted on or after July 1, 1988, shall have completed acceptable postgraduate study as may be established by the board by rules and regulations.

(b) Applicants licensed, registered or certified by a board of examiners of any other state or country whose requirements for licensure, registration or certification are substantially equal to those of this state in the opinion of the state board of healing arts may be granted, upon payment of the endorsement license fee established pursuant to K.S.A. 65-2012, and amendments thereto, a license without examination.

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(c) The board shall adopt rules and regulations establishing the criteria which a school of podiatry shall satisfy to be recognized as being in good standing by the board under subsection (a). The board may send a questionnaire developed by the board to any school of podiatry for which the board does not have sufficient information to determine whether the school meets the requirements of subsection (a) and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the school to be recognized as being in good standing. The board may contract with investigative agencies, commissions or consultants to assist agencies, commissions or consultants to assist the board in obtaining information about schools of podiatry. In entering such contract the authority to approve schools shall remain solely with the board.

Section 2. K.S.A. 1990 Supp. 65-2004 is hereby amended to read as follows: (a) Except as provided in subsection (b) of K.S.A. 65-2003 and amendments thereto, each applicant for a license to practice podiatry shall be examined by ~~the board in the following subjects: Anatomy, bacteriology, chemistry, dermatology, histology, pathology, physiology, pharmacology and medicine, diagnosis, therapeutics, and clinical podiatry and surgery, limited in their scope to the treatment of the human foot.~~ If written examination required by the board to test the applicant's knowledge of the basic and clinical sciences and such other subjects relating to podiatry to determine applicant's fitness to properly practice

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podiatry. Except as provided by K.S.A. 65-2006 and amendments thereto, if the applicant possess the qualifications required by K.S.A. 65-2003 and amendments thereto, completes the examination prescribed with the passing grade as established by rules and regulations of the board and pays to the board the license fee established pursuant to K.S.A. 65-2012 and amendments thereto, such applicant shall be issued a license by the board to practice podiatry in this state.

(b) Each applicant before taking the examination shall pay to the board the examination fee established pursuant to K.S.A. 65-2012 and amendments thereto. Any applicant failing the examination may have a reexamination in accordance with criteria established by rules and regulations of the board, which criteria may limit the number of times an applicant may retake the examination.

Section 3. K.S.A. 1990 Supp. 65-2006 is hereby amended to read as follows: (a) The board, upon hearing, may revoke, suspend or limit any license or permit to practice podiatry, may deny issuance or renewal of any such license or permit, or may publicly or privately censure a licensee or permittee, if the person holding or applying for such license or permit is found by the board to:

(1) Have committed fraud in securing the license or permit;
(2) have engaged in unprofessional or dishonorable conduct or professional incompetency;

(3) have been convicted of a felony ~~if the board determines, after investigation, that such person has not been sufficiently~~

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~~rehabilitated to warrant the public trust, or class A misdemeanor,~~
whether or not related to the practice of podiatry;

~~(4) have used untruthful or improbable statements or flamboyant, exaggerated or extravagant claims in advertisements concerning the licensee's or permit holder's professional excellence or abilities, fraudulent or false advertisement;~~

(5) be addicted to or have distributed intoxicating liquors or drugs for any other than lawful purposes;

(6) have willfully or repeatedly violated the podiatry act, the pharmacy act or the uniform controlled substances act, or any rules and regulations adopted thereunder, or any rules and regulations of the secretary of health and environment which are relevant to the practice of podiatry;

(7) have unlawfully invaded the field of practice of any branch of the healing arts;

~~(8) have failed to submit proof of completion of a continuing education course required pursuant to the podiatry act;~~

~~(9)~~ (8) have engaged in the practice of podiatry under a false or assumed name or impersonated another podiatrist, but practice by a licensee or permit holder under a professional corporation or other legal entity duly authorized to provide podiatry services in the state shall not be considered to be practice under an assumed name;

~~(10)~~ (9) be unable to practice podiatry with reasonable skill and safety to patients by reason of any mental or physical

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condition, illness, alcoholism or excessive use of drugs, controlled substances or chemical or any other type of material;

~~(11)~~ (10) have had the person's license or permit to practice podiatry revoked, suspended or limited, or have had other disciplinary actions taken or an application for a license or permit denied, by the proper licensing authority of any state, territory or country or the District of Columbia;

~~(12)~~ (11) have violated any rules and regulations of the board or any lawful order or directive of the board; ~~or~~

~~(13)~~ (12) have knowingly submitted a misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement-;

(13) have cheated on or attempted to subvert the validity of the examination for a license;

(14) have been found to be mentally ill, disabled, not guilty by reason of insanity or incompetent to stand trial by a court of competent jurisdiction;

(15) have prescribed, sold, administered, distributed or given a controlled substance to any person for other than medically accepted or lawful purposes;

(16) have violated a federal law or regulation relating to controlled substances;

(17) have failed to furnish the board, or its investigators or representatives, any information legally requested by the board;

(18) have had sanctions or disciplinary actions taken against the licensee's license or permit by a peer review committee, health

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care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(19) have failed to report to the board any adverse action taken against the licensee or permit holder by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(20) have surrendered a license or authorization to practice podiatry in another state or jurisdiction, have surrendered the authority to utilize controlled substances issued by any state or federal agency, have agreed to a limitation to or restriction of privileges at any medical care facility or have surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(21) have failed to report to the board surrender of a license or authorization to practice podiatry in another state or jurisdiction or surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or

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conduct which would constitute grounds for disciplinary action under this section;

(22) have an adverse judgment, award or settlement against the licensee or permit holder resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(23) have failed to report to the board any adverse judgment, settlement or award against the licensee or permit holder resulting from a malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(24) have failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a and amendments thereto;

(25) have failed to pay the annual premium surcharge as required by K.S.A. 40-3404 and amendments thereto; or

(26) have knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill or statement.

(b) In determining whether or not a licensee or permit holder is unable to practice podiatry with reasonable skill and safety to patients as provided in subsection (a) ~~(10)~~ (9), the board, upon ~~probable cause,~~ reasonable suspicion of such inability, shall have authority to compel a licensee or permit holder to submit to mental or physical examination or drug screen by such persons as the board may designate. To determine whether reasonable suspicion of such

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inability exists, the investigative information shall be presented to the board as a whole or the advisory committee on podiatry established pursuant to K.S.A. 74-2807 and amendments thereto and the determination shall be made by a majority vote of the board as a whole or the advisory committee. Information submitted to the board as a whole or the advisory committee and any reports, findings or other records shall be confidential and not subject to discovery or release to any person or entity. Failure of a licensee or permit holder to submit to such examination or drug screen when directed shall constitute an admission of the allegations against the licensee or permit holder, unless the failure was due to circumstances beyond the licensee's or permit holder's control. A person affected by this subsection shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of podiatry with reasonable skill and safety to patients. Each licensee or permit holder accepting the privilege to practice podiatry in this state, by practicing podiatry in this state or by making and filing an application for a license or permit, or renewal of a license or permit, to practice podiatry in this state, shall be deemed to have consented to submit to a mental or physical examination or drug screen when directed in writing by the board pursuant to this subsection and to have waived all objections to the admissibility of the testimony, drug screen or examination report of the person conducting such examination or drug screen at any proceeding or hearing before the board on the ground that such testimony, drug

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screen or examination report constitutes a privileged communication. The record of any board proceedings involving a mental or physical examination or drug screen pursuant to this subsection shall not be used in any other administrative or judicial proceeding.

Whenever the board directs that a licensee or permit holder submit to an examination or drug screen pursuant to this subsection, the time from the date of the board's directive until the submission to the board of the report of the examination shall not be included in the computation of the time limit for hearing prescribed by the Kansas administrative procedure act.

(c) As used in this section, "professional incompetency" and, "unprofessional conduct", "false advertisement" and "advertisement" shall have the meanings ascribed thereto by K.S.A. 65-2837 and amendments thereto.

(d) The procedure for revocation, suspension, limitation, temporary suspension, temporary limitation, or for denial of issuance or renewal pursuant to this section, of any license or permit to practice podiatry shall be in accordance with the provisions of the Kansas administrative procedure act.

Section 4. K.S.A. 1990 Supp. 65-2003, 65-2004 and 65-2006 are hereby repealed.

Section 5. This act shall take effect and be in force from and after its publication in the statute book.

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HEALING ARTS DRAFT BILL NO. 4

_____ Bill No. _____

AN ACT concerning the healing arts; relating to grounds and proceedings for discipline and for denial of licenses; amending K.S.A. 65-2842, 65-2851a, K.S.A. 1990 Supp. 65-2809, 65-2836 and 65-2837 and repealing the existing sections; also repealing K.S.A. 65-2805.

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

Section 1. K.S.A. 65-2805 is hereby repealed.

Section 2. K.S.A. 1990 Supp. 65-2809 is hereby amended to read as follows: 65-2809. (a) The license shall expire on June 30 each year and may be renewed annually upon request of the licensee. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee, which shall be paid not later than the expiration date of the license.

(b) Except as otherwise provided in this section, the board shall require every licensee in the active practice of the healing arts within the state to submit evidence of satisfactory completion of a program of continuing education required by the board. The requirements for continuing education for licensees of each branch of the healing arts shall be established by the members of such branch on the board. The board shall adopt rules and regulations prescribing the requirements established by the members of each branch of the healing arts for each program of continuing education as soon as possible after the effective date of this act. In establishing such requirements the members of the branch of the healing arts establishing them shall consider any programs of

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continuing education currently being offered to such licensees. If, immediately prior to the effective date of this act, any branch of the healing arts is requiring continuing education or annual postgraduate education as a condition to renewal of a license of a licensee of such branch of the healing arts, such requirement as a condition for the renewal of such license shall continue in full force and effect notwithstanding any other provision of this section to the contrary.

(c) The board, prior to renewal of a license, shall require the licensee, if in the active practice of the healing arts within the state, to submit to the board evidence satisfactory to the board that the licensee is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402 and amendments thereto and has paid the annual premium surcharge as required by K.S.A. 40-3404 and amendments thereto.

(d) At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration by mail addressed to the licensee's last place of residence as noted upon the office records. If the licensee fails to pay the annual fee by the date of the expiration of the license, the licensee shall be given a second notice that the licensee's license has expired, that the board will suspend action for 30 days following the date of expiration, that upon receipt of the annual fee together with an additional fee of not to exceed \$500 within the thirty-day period ~~no order of revocation will be entered~~ the license shall not be cancelled and that, if both fees are not

received within the thirty-day period, the license shall be cancelled.

(e) Any licensee who allows the licensee's license to ~~lapse~~ be cancelled by failing to renew as herein provided may be reinstated upon recommendation of the board and upon payment of the renewal fees then due and upon proof of compliance with the continuing educational requirements established by the board.

(f) There is hereby created a designation of exempt license. The board is authorized to issue an exempt license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an exempt license established pursuant to K.S.A. 65-2852 and amendments thereto. The board may issue an exempt license only to a person who has previously been issued a license to practice the healing arts in Kansas, who is no longer regularly engaged in such practice and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder thereof to all privileges attendant to the branch of the healing arts for which such license is issued. Each exempt license may be renewed annually subject to the provisions of this section. Each exempt licensee shall be subject to all provisions of the healing arts act, except as otherwise provided in this subsection (f). The holder of an exempt license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by K.S.A. 65-2809 and amendments thereto. Each exempt licensee may apply for a license to regularly engage in the

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practice of the appropriate branch of the healing arts upon filing a written application with the board and submitting evidence of satisfactory completion of applicable continuing requirements established by the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-2852 and amendments thereto. The board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice the healing arts within Kansas. Nothing in this subsection (f) shall be construed to prohibit a person holding an exempt license from serving as a coroner.

Section 3. K.S.A. 1990 Supp. 65-2836 is hereby amended to read as follows: A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

(a) The licensee has committed fraud or misrepresentation in applying for or securing an original ~~ex~~ renewal or reinstated license.

(b) The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency.

(c) The licensee has been convicted of a felony or class A misdemeanor, whether or not related to the practice of the healing arts.

(d) The licensee has used fraudulent or false advertisements.

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(e) The licensee is addicted to or has distributed intoxicating liquors or drugs for any other than lawful purposes.

(f) The licensee has willfully or repeatedly violated this act, the pharmacy act of the state of Kansas or the uniform controlled substances act, or any rules and regulations adopted pursuant thereto, or any rules and regulations of the secretary of health and environment which are relevant to the practice of the healing arts.

(g) The licensee has unlawfully invaded the field of practice of any branch of the healing arts in which the licensee is not licensed to practice.

~~(h) The licensee has failed to pay annual renewal fees specified in this act.~~

~~(i) The licensee has failed to take some form of postgraduate work each year or as required by the board.~~

~~(j)~~ (h) The licensee has engaged in the practice of the healing arts under a false or assumed name, or the impersonation of another practitioner. The provisions of this subsection relating to an assumed name shall not apply to licensees practicing under a professional corporation or other legal entity duly authorized to provide such professional services in the state of Kansas.

~~(k)~~ (i) The licensee has the inability to practice the branch of the healing arts for which the licensee is licensed with reasonable skill and safety to patients by reason of illness, alcoholism, excessive use of drugs, controlled substances, chemical

or any other type of material or as a result of any mental or physical condition. In determining whether or not such inability exists, the board, upon reasonable suspicion of such inability, shall have authority to compel a licensee to submit to mental or physical examination or drug screen by such persons as the board may designate. To determine whether reasonable suspicion of such inability exists, the investigative information shall be presented to the board as a whole or to a person or entity approved by the board ~~a review committee established pursuant to K.S.A. 65-2840e and amendments thereto~~ and the determination shall be made by a majority vote of the board as a whole or the person or entity approved by the board. ~~review committee.~~ Information submitted to the board as a whole or the person or entity approved by the board and ~~all review committee and its~~ reports, findings and other records shall be confidential and not subject to discovery by or release to any person or entity. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such examination or drug screen. A person affected by this subsection shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of the healing arts with reasonable skill and safety to patients. For the purpose of this subsection, every person licensed to practice the healing arts and who shall accept the privilege to practice the healing arts in this state by so practicing or by the making and filing of an annual renewal to practice the healing arts in this state shall be deemed to have consented to submit to a mental or physical examination or a drug screen when directed in writing by the board and further to have

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waived all objections to the admissibility of the testimony, drug screen or examination report of the person conducting such examination or drug screen at any proceeding or hearing before the board on the ground that such testimony or examination or drug screen report constitutes a privileged communication. In any proceeding by the board pursuant to the provisions of this subsection, the records of such board proceedings involving the mental and physical examination or drug screen shall not be used in any other administrative or judicial proceeding.

~~(l)~~ (j) The licensee has had a license to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

~~(m)~~ (k) The licensee has violated any lawful rule and regulation promulgated by the board or violated any lawful order or directive of the board previously entered by the board.

~~(n)~~ (l) The licensee has failed to report or reveal the knowledge required to be reported or revealed under K.S.A. 65-28,122 and amendments thereto.

~~(o)~~ (m) The licensee, if licensed to practice medicine and surgery, has failed to inform a patient suffering from any form of abnormality of the breast tissue for which surgery is a recommended form of treatment, of alternative methods of treatment specified

in the standardized summary supplied by the board. The standardized summary shall be given to each patient specified herein as soon as practicable and medically indicated following diagnosis, and this shall be given to each patient specified herein as soon as practicable and medically indicated following diagnosis, and this shall constitute compliance with the requirements of this subsection. The board shall develop and distribute to persons licensed to practice medicine and surgery a standardized summary of the alternative methods of treatment known to the board at the time of distribution of the standardized summary, including surgical, radiological or chemotherapeutic treatments and the risks associated with each of these methods. Nothing in this subsection shall be construed or operate to empower or authorize the board to restrict in any manner the right of a person licensed to practice medicine and surgery to recommend a method of treatment or to restrict in any manner a patient's right to select a method of treatment. The standardized summary shall not be construed as a recommendation by the board of any method of treatment. The preceding sentence or words having the same meaning shall be printed as a part of the standardized summary. The provisions of this subsection shall not be effective until the standardized written summary provided for in this subsection is developed and printed and made available by the board to persons licensed by the board to practice medicine and surgery.

~~(p)~~ (n) The licensee has cheated on or attempted to subvert the validity of the examination for a license.

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~~(q)~~ (o) The licensee has been found to be mentally ill, disabled, not guilty by reason of insanity or incompetent to stand trial by a court of competent jurisdiction.

~~(r)~~ (p) The licensee has prescribed, sold, administered, distributed or given a controlled substance to any person for other than medically accepted or lawful purposes.

~~(s)~~ (q) The licensee has violated a federal law or regulation relating to controlled substances.

~~(t)~~ (r) The licensee has failed to furnish the board, or its investigators or representatives, any information legally requested by the board.

~~(u)~~ (s) Sanctions or disciplinary actions have been taken against the licensee by a peer review committee, health care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

~~(v)~~ (t) The licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

~~(w)~~ (u) The licensee has surrendered a license or authorization to practice the healing arts in another state or

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jurisdiction, has surrendered the authority to utilize controlled substances issued by any state or federal agency, has agreed to a limitation to or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

~~(x)~~ (v) The licensee has failed to report to the board surrender of the licensee's license or authorization to practice the healing arts in another state or jurisdiction or surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

~~(y)~~ (w) The licensee has an adverse judgment, award or settlement against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

~~(z)~~ (x) The licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

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~~(aa)~~ (y) The licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a and amendments thereto.

~~(bb)~~ (z) The licensee has failed to pay the annual premium surcharge as required by K.S.A. 40-3404 and amendments thereto.

~~(cc)~~ (aa) The licensee has knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill or statement.

~~(dd)~~ (bb) The licensee as the responsible physician for a physician's assistant has failed to adequately direct and supervise the physician's assistant in accordance with K.S.A. 65-2896 to 65-2897a, inclusive, and amendments thereto, or rules and regulations adopted under such statutes.

Section 4. K.S.A. 1990 Supp. 65-2837 is hereby amended to read as follows: 65-2837. As used in K.S.A. 65-2836 and amendments thereto and in this section:

(a) "Professional incompetency" means:

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

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

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

(b) "Unprofessional conduct" means:

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(1) Solicitation of professional patronage through the use of fraudulent or false advertisements, or profiting by the acts of those representing themselves to be agents of the licensee.

(2) Representing to a patient that a manifestly incurable disease, condition or injury can be permanently cured.

(3) Assisting in the care or treatment of a patient without the consent of the patient, the attending physician or the patient's legal representatives.

(4) The use of any letters, words, or terms, as an affix, on stationery, in advertisements, or otherwise indicating that such person is entitled to practice a branch of the healing arts for which such person is not licensed.

(5) Performing, procuring or aiding and abetting in the performance or procurement of a criminal abortion.

(6) Willful betrayal of confidential information.

(7) Advertising professional superiority or the performance of professional services in a superior manner.

(8) Advertising to guarantee any professional service or to perform any operation painlessly.

(9) Participating in any action as a staff member of a medical care facility which is designed to exclude or which results in the exclusion of any person licensed to practice medicine and surgery from the medical staff of a nonprofit medical care facility licensed in this state because of the branch of the healing arts practiced by such person or without just cause.

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(10) Failure to effectuate the declaration of a qualified patient as provided in subsection (a) of K.S.A. 65-28,107 and amendments thereto.

(11) Prescribing, ordering, dispensing, administering, selling, supplying or giving any amphetamines or sympathomimetic amines, except as authorized by K.S.A. 65-2837a and amendments thereto.

(12) Conduct likely to deceive, defraud or harm the public.

(13) Making a false or misleading statement regarding the licensee's skill or the efficacy or value of the drug, treatment or remedy prescribed by the licensee or at the licensee's direction in the treatment of any disease or other condition of the body or mind.

(14) Aiding or abetting the practice of the healing arts by an unlicensed, incompetent or impaired person.

(15) Allowing another person or organization to use the licensee's license to practice the healing arts.

(16) Commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice.

(17) The use of any false, fraudulent or deceptive statement in any document connected with the practice of the healing arts, including the inaccurate recording, falsifying or altering of a patient or medical care facility record.

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

(19) Directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services

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not actually and personally rendered, other than through the legal functioning of lawful professional partnerships, corporations or associations.

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

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

(22) Charging an excessive fee for services rendered.

(23) Prescribing, dispensing, administering, distributing a prescription drug or substance, including a controlled substance, in an excessive, improper or inappropriate manner or quantity or not in the course of the licensee's professional practice.

(24) Repeated failure to practice healing arts with that level of care, skill and treatment which is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances.

(25) Failure to keep written medical records which accurately describe the services rendered to the patient, including patient histories, pertinent findings, examination results and test results.

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

(27) Using experimental forms of therapy without proper informed patient consent, without conforming to generally accepted

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criteria or standard protocols, without keeping detailed legible records or without having periodic analysis of the study and results reviewed by a committee or peers.

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

(c) "False advertisement" means any advertisement which is false, misleading or deceptive in a material respect. In determining whether any advertisement is misleading, there shall be taken into account not only representations made or suggested by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations made.

(d) "Advertisement" means all representations disseminated in any manner or by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of professional services.

(e) "Licensee" for purposes of this section and K.S.A. 65-2836 and amendments thereto shall mean all persons issued a license, permit or special permit pursuant to article 28 of chapter 65 of the Kansas Statutes Annotated.

(f) "License" for purposes of this section and K.S.A. 65-2836 and amendments thereto shall mean any license, permit, special

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permit or approval authorized by article 28 of chapter 65 of the Kansas Statutes Annotated.

Section 5. K.S.A. 65-2842 is hereby amended to read as follows: 65-2842. Whenever the board directs, pursuant to subsection ~~(*)~~ (i) of K.S.A. 65-2836 and amendments thereto, that a licensee submit to a mental or physical examination or drug screen, the time from the date of the board's directive until the submission to the board of the report of the examination or drug screen shall not be included in the computation of the time limit for hearing prescribed by the Kansas administrative procedure act.

Section 6. K.S.A. 65-2851a is hereby amended to read as follows: 65-2851a. ~~(a) All administrative proceedings provided for by article 28 of chapter 65 of the Kansas Statutes Annotated and affecting any licensee licensed under that article shall be conducted in accordance with the provisions of the Kansas administrative procedure act.~~

~~(b)~~ (a) Judicial review and civil enforcement of any agency action under article 28 of chapter 65 of the Kansas Statutes Annotated shall be in accordance with the act for judicial review and civil enforcement of agency actions.

Section 7. K.S.A. 65-2842, 65-2851a and K.S.A. 1990 Supp. 65-2809, 65-2836 and 65-2837 are hereby repealed.

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

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HEALING ARTS DRAFT BILL NO. 5

_____ Bill No. _____

AN ACT concerning physical therapy; relating to representation as a physical therapist assistant and providing for injunctions for violations of physical therapy act; amending K.S.A. 65-2913 and repealing the existing section.

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

Section 1. K.S.A. 65-2913 is hereby amended to read as follows: (a) Any person who, in any manner, represents oneself as a physical therapist, or who uses in connection with such person's name the words or letters physical therapist, physiotherapist, registered physical therapist, P.T., Ph.T. or R.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist, without a valid existing certificate of registration as a physical therapist issued to such person pursuant to the provisions of this act, shall be guilty of a misdemeanor.

~~(b) Any person who successfully meets the requirements of subsection (c) of K.S.A. 65-2906 and amendments thereto shall be known as and designated a physical therapist assistant and may designate or describe oneself as a physical therapist assistant, C.P.T.A., or P.T. Asst. Any person who, in any manner, represents oneself as a physical therapist assistant, or who uses in connection with such person's name the words or letters physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words,~~

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abbreviations or insignia, indicating or implying that such person is a physical therapist assistant, without a valid existing certification as a physical therapist assistant issued to such person pursuant to the provisions of this act, shall be guilty of a misdemeanor.

(c) Nothing in this act shall prohibit any person not holding oneself out as a physical therapist or physical therapist assistant from carrying out as an independent practitioner, without prescription or supervision, the therapy or practice for which such person is qualified, and shall not prohibit such person from using corrective therapy. Nothing in this act shall prohibit any person who assists the physical therapist or physical therapist assistant from being designated as a physical therapy aide.

New Section 2. When it appears to the state board of healing arts that any person is violating any of the provisions of K.S.A. 65-2901 to 65-2912, inclusive, and amendments thereto, the board may bring an action in a court of competent jurisdiction for an injunction against such violation without regard to whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

Section 3. K.S.A. 65-2913 is hereby repealed.

Section 4. This act shall take effect and be in force from and after its publication in the statute book.

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HEALING ARTS DRAFT BILL NO. 6

_____ Bill No. _____

AN ACT concerning the healing arts; relating to reinstatement of revoked licenses and the assessment of costs in administrative proceedings; amending K.S.A. 65-2846 and 1990 Supp. 65-2844 and repealing the existing sections.

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

Section 1. K.S.A. 1990 Supp. 65-2844 is hereby amended to read as follows: ~~At any time after the expiration of one year, application may be made for reinstatement of any licensee whose license shall have been revoked, and such application shall be addressed to the board. The board may adopt such rules and regulations concerning notice and hearing of such application as considered necessary. A person whose license has been revoked may apply for reinstatement of the license after the expiration of three years from the effective date of the revocation. Application for reinstatement shall be on a form provided by the board and shall be accompanied by a reinstatement fee established by the board by rules and regulations not to exceed \$1,000. The burden of proof by clear and convincing evidence shall be on the applicant to show sufficient rehabilitation to justify reinstatement of the license. If the board determines a license should not be reinstated, the person shall not be eligible to reapply for reinstatement for three years from the effective date of the denial. All proceedings conducted on an application for reinstatement shall be in accordance with the provisions of the~~

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Kansas administrative procedure act and shall be reviewable in accordance with the act for judicial review and civil enforcement of agency actions. The board, on its own motion, may stay the effectiveness of an order of revocation of license.

Section 2. K.S.A. 65-2846 is hereby amended to read as follows: ~~If the order is adverse to the licensee, the costs shall be charged to him as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid out of any money in the healing arts fee fund. Witness fees and costs may be taxed according to the statutes prevailing in the district courts.~~ (a) The costs incurred by the board in conducting any proceeding under the Kansas administrative procedure act may be assessed against the parties to the proceeding in such proportion as the board may determine upon consideration of all relevant circumstances including the nature of the proceeding, the outcome of the proceeding and the level of participation by the parties.

(b) For purposes of this section costs incurred shall mean the presiding officer fees and expenses, costs of making any transcripts, witness fees and expenses, mileage, travel allowances and subsistence expenses of board employees and fees and expenses of agents of the board who provides services pursuant to K.S.A. 1989 Supp. 65-2878a, and amendments thereto. Costs incurred shall not include presiding officer fees and expenses or costs of making and preparing the record unless the board has designated or

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retained the services of independent contractors to perform such functions.

(c) The board shall make any assessment of costs incurred as part of the final order rendered in the proceeding. Such order shall include findings and conclusions in support of the assessment of costs.

Section 3. K.S.A. 65-2846 is hereby repealed.

Section 4. This act shall take effect and be in force from and after its publication in the statute book.

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