

Approved 2-5-91
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE

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

10:00 a.m./p.m./ on Wednesday, January 30, 1991 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Norman Furse, Revisor's Office
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Helen Stevens, Kansas Peace Officers Association
Nancy Lindberg, Attorney General's Office
Senator Wint Winter
Jim Yonally, Kansas Dental Hygienists Association
Roger Werholtz, Department of Corrections
Dr. Stuart Frager (TSH)
Mary Ann Gabel (Behavioral Sciences Board)
Rebecca Rice, Community Mental Health Centers of Kansas, Inc.

Chairman Ehrlich called the meeting to order at 10:00 a.m.

Announcement was made by the chairman regarding flotation beds on display on the first floor of the statehouse. Minutes of the meetings for January 17, 23, and 24 were passed out for approval on January 31.

The chairman asked for committee bill requests. Helen Stevens presented a bill requested by the Kansas Peace Officers Association and the Attorney General's office. The requested bill covers infectious disease, authorizing the court to order tests for such diseases in certain circumstances and authorizing disclosure of certain information. (Attachment 1)

Nancy Lindberg of the Attorney General's office, Victims' Rights Task Force, spoke in favor on the requested bill and to the section that dealt with the victim of the crime who may request the court to order infectious disease tests of the alleged offender. Staff Furse called attention to portion of the bill that needs to be "cleaned up" and will review that section further with the Attorney General's office. The wishes of the committee were asked, and motion was made by Senator Anderson, seconded by Senator Langworthy to introduce the bill.
Motion carried.

Senator Wint Winter requested a bill regarding registration of athletic trainers through the Department of Health and Environment. Senator Burke moved to introduce the bill, seconded by Senator Langworthy. The motion carried.

Jim Yonally, representing the Kansas Dental Hygienists Association, requested a bill dealing with certain changes for dental hygienists that would (1) require them to pass a course in CPR, (2) administer topical anesthetic agents after passing a course in instruction by the Kansas Dental Board, and (3) be able to submit 3 names for the Kansas Dental Board. Senator Anderson moved, seconded by Senator Hayden.
Motion carried.

The chair then recognized Senator Burke who introduced his three pages serving for him in the Senate that day.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

room 526, Statehouse, at 10:00 a.m. ~~p.m.~~ on January 30, 1991.

SB 1 - Exemptions for certain laboratories providing tests for controlled substances.

Roger Werholtz, Department of Corrections, presented his testimony on SB 1 and expressed his concern for speedy passage. Considerable discussion was held regarding the language of the bill submitted by the Department of Corrections and the Department of Health and Environment. Staff Furse asked questions regarding the balloon of the bill and suggested the language be corrected. (Attachment 2) The chair asked for further questions, and Senator Walker suggested the original bill by the Department of Corrections be used and moved that SB 1 be recommended favorable for passage. Senator Reilly seconded the motion. Motion carried. Senator Walker suggested Senator Brady carry the bill.

SB 55 - An act concerning the registration of masters level psychologists; relating to qualifications for registration; amending K.S.A. 1990 Supp. 74-5363 and repealing the existing section.

Dr. Frager distributed and presented testimony in favor of SB 55. The problem addressed by SB 55 arose from the Attorney General's Opinion No. 90-104 clarifying Kansas statutes covering the Registered Masters Level Psychologist Act. The Council of Administrative Psychologists is requesting the committee consider the changes in the bill. (Attachment 3)

Mary Ann Gabel also submitted written testimony and spoke in support of SB 55. The Behavioral Sciences Regulatory Board first became aware of a possible omission in the existing statutes regarding the educational qualifications through the publication of the Attorney General's Opinion. The section of statutes that established educational requirements for registration currently requires "at least" a master's degree in clinical psychology or a master's degree in psychology with specific casework. The Behavioral Sciences Regulatory Board would like the committee to consider amending this legislation. (Attachment 4)

After committee discussion, the chair recognized Rebecca Rice who spoke on behalf of the Association of Community Mental Health Centers of Kansas, Inc. requesting an amendment to SB 55 which would address the problem mental health centers are encountering in recruiting out-of-state personnel. The amendment would allow the university to notify the Board of Behavioral Sciences that the master's degree is in psychology, but with an emphasis on clinical psychology. (Attachment 5) Discussion followed regarding regulatory boards and the continued problem dealing with qualifications.

The meeting was adjourned at 11:00 a.m.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE
DATE 1-30-91

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Chip Wheelen, Topeka

Ks Medical Soc.

Jim Yonally, Overland Park

Kan. Dental Hygienist Assoc.

Helen Stephens

KPOA

~~W. J. ...~~

ASSOC. CMHEs Ks.

~~Richard ...~~

CMHC

KEITH R LANDIS

CHRISTIAN SCIENCE COMMITTEE
ON PUBLICATION FOR KANSAS

John Peterson

Ks Assn of Prof
Psychologists

Roy ...

KDOP

Kay Farley

OJA

MaryAnn Gabel Topeka

BSRB

Stuart Frager, Topeka

Council of Administrative
Psychologists of SRS

Tom Bruns, Kansas City, KS 66104
3510 N. 51

Kansas Pharmacists Assn.

Leely Kuitala, KCKS

NOW
Nat'l Org. for Women

Nancy Lindberg
Manhattan

AH. Gen Office

P. H. Hostetter, M.D.

KAJP

David Hanzlick

KDA

Roger Carlson

KDHE

Bill on AIDS and other infectious diseases.

AN ACT concerning certain infectious diseases; authorizing a court to order tests for such diseases in certain circumstances and authorizing disclosure of certain information.

Section 1. K.S.A. 1989 Supp. 65-6001 is hereby amended to read as follows: 65-6001. As used in K.S.A. 1989 Supp. 65-6001 through 65-6007 and sections 3, 4, and 5, and amendments thereto, unless the context clearly requires otherwise.

- (a) "AIDS" means the disease acquired immune deficiency syndrome.
- (b) "Corrections officer" means an employee of the department of corrections as defined in 75-5202(f) as amended and 75-5202(g) as amended.
- (c) "Emergency services employee" means an attendant for first responder as defined by K.S.A. 1989 Supp. 65-6112 and amendments thereto, or a firefighter.
- (d) "Law enforcement employee" means:
 - (1) Any law enforcement officer, as defined by K.S.A. 74-5602 and amendments thereto, or
 - (2) Any person in the service of a city police department or county sheriff's office who performs law enforcement duties without pay and is considered a reserve officer, or
 - (3) Any person employed by a city or county who is in charge of a jail or section of jail, including jail guards and those who conduct searches of person(s) taken into custody.
- (e) "Employing agency or entity" means the agency or entity employing a corrections officer, emergency services employee, law enforcement employee, or jailer.
- (f) "HIV" means the human immunodeficiency virus or any other identified causative agent of AIDS.
- (g) "Infectious disease" means AIDS, hepatitis B, or meningococcal meningitis.
- (h) "Infectious diseases tests" means tests approved by the secretary for detection of infectious diseases.
- (i) "Positive reaction to an AIDS tests" means a positive test, approved by the secretary, to detect antibodies to the probable causative agent for AIDS,

with a positive confirmatory test as specified by the secretary.

- (j) "Secretary" means the secretary of health and environment.
- (k) "Physician" means any person licensed to practice medicine and surgery.

Section 2. K.S.A. 1989 Supp. 65-6004 is hereby amended to read as follows: 65-6004 (a) Notwithstanding any other law to the contrary, a physician performing medical or surgical procedures on a patient who the physician knows has an infectious disease or has had a positive reaction to an infectious disease test may disclose such information to other health care providers or emergency personnel who have been or will be placed in contact with bodily fluids of such patient. The information shall be confidential and shall not be disclosed by such health care providers or emergency personnel except as may be necessary in providing treatment for such patient.

(b) Any physician who discloses information in accordance with the provisions of this section in good faith and without malice shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such disclosure. Any such physician shall have the same immunity with respect to participation in any judicial proceeding resulting from such disclosure.

New Section 3. (a) If a corrections officer, emergency services employee, or law enforcement employee comes in contact with or is otherwise exposed to transmission of bodily fluids from one or more other persons while performing duties within the scope of such employee's duties as an employee, the head of the employing agency or entity may make application to a court of competent jurisdiction for an order requiring such other person or persons to submit to infectious disease tests.

Such application must include an allegation that the person or persons sought to be tested have been requested to voluntarily submit to infectious disease tests and have refused the tests. When any such application is received, the court shall hold a hearing forthwith and shall issue its order thereon immediately if the court finds that: (1) There is probable cause to believe that the employee involved has come in contact with or otherwise been exposed to transmission of the bodily fluids of the person or persons sought to be tested; and (2) the person or persons sought to be tested have been requested to submit to the tests and have refused, unless the court makes a further finding that exigent circumstances exist which would, in the court's judgement, excuse the applicant from making such a request.

(b) If an infectious disease test ordered pursuant to this section results in a negative reaction, the court shall, upon proper application, order the person tested to submit to

another infectious disease test six months from the date the first test was administered.

(c) The results of any infectious disease test ordered pursuant to this section shall be disclosed to the court which ordered the test, the employee and the person tested. If an infectious disease test ordered pursuant to this section results in a positive reaction, the results shall be reported to the employee.

New section. 4. (a) At the time of an appearance before a magistrate under K.S.A. 22-2901 and amendments thereto, the magistrate shall inform any person arrested and charged with a crime in which it appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved of the availability of infectious disease tests and shall cause the alleged victim of such a crime, if any, to be notified that infectious disease tests are available. The victim of the crime may request the court to order infectious disease tests of the alleged offender ~~if the person arrested and charged with a crime stated to the law enforcement officer making such arrest that the person arrested and charged with the crime has an infectious disease or is infected with an infectious disease or, or used words of like effect, the court shall order the arrested person to submit to infectious disease tests.~~ *or*

(b) Upon conviction of a person for any crime which the court determines from the facts of the case involved or was likely to have involved the transmission of body fluids from one person to another, the court: (1) May order the convicted person to submit to infectious disease tests; or (2) shall order the convicted person to submit to infectious disease tests if the victim of the crime or the parent or legal guardian of the victim, if the victim is a minor, requests the court to issue such order. If infectious disease tests are ordered under this subsection, the victim of the crime, if any, who is not a minor shall designate a health care provider or counselor to receive such information on behalf of the victim. If the victim is a minor, the parent or legal guardian of the victim shall designate the health care provider or counselor to receive such information.

(c) The results of any infectious disease test ordered under subsection (a) shall be disclosed to the law enforcement officer making such arrest, the person arrested and such other persons as the court determines have a legitimate need to know the test result in order to provide for their protection. The results of any infectious disease test ordered under subsection (b) shall be disclosed to the court which ordered the test, the convicted person and to the person designated under subsection (b) by the victim or victims of the crime or by the parent or legal guardian of a victim if the victim is a minor. If an infectious disease test ordered under this section results in a positive reaction, the results shall be reported to the secretary of health and environment and to the secretary of corrections.

New section 5. (a) When a court orders a person to submit to infectious disease tests under this act, the withdrawal of the blood may be performed only by: (a) a person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person; (2) a licensed professional nurse or a licensed practical nurse; or (3) a qualified medical technician. No person authorized by this subsection to withdraw blood, no person assisting in the performance of the infectious disease tests nor any medical care facility where blood is withdrawn or tested that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices.

(b) The results of tests or reports, or information therein, obtained under this act shall be confidential and shall not be divulged to any person not authorized by this act to receive the same. Any violation of this subsection is a class C misdemeanor.

Section 6. K.S.A. 1989 Supp. 65-6001 and 65-6004 are hereby repealed.

Section 7. This act shall take effect July 1, 1991.



KANSAS DEPARTMENT OF CORRECTIONS

JOAN FINNEY, GOVERNOR

STEVEN J. DAVIES, Ph.D., SECRETARY

LONDON STATE OFFICE BUILDING — 900 SW JACKSON
TOPEKA, KANSAS — 66612-1284
913-296-3317

**TESTIMONY TO THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE
ON SB 1
ROGER WERHOLTZ, DEPUTY SECRETARY OF CORRECTIONS
DIVISION OF COMMUNITY AND FIELD SERVICES MANAGEMENT
JANUARY 30, 1991**

The Department of Corrections has reviewed the balloon bill proposed by the Department of Health and Environment and the accompanying attachments. If the regulations promulgated by the Secretary of Health and Environment are consistent with the attached letter from Roger Carlson, Ph.D. and with the attached sample regulations, then the Department of Corrections can support Health and Environment's proposal. However, if the regulations promulgated do not conform to this agreement, the Department of Corrections will be back requesting exemption for all KDOC facilities, field services, community corrections programs, and conservation camps. Given this understanding, the Department of Corrections would request the speedy passage of S.B. 1 with the amended language proposed.

Senate P H&W
Attachment #2
01-30-91



Equal Opportunity Employer

SENATE BILL No. 1

By Senator Johnston

1-14

2-2

8 AN ACT concerning laboratory testing; relating to approval and reg-
9 ulation of laboratories; amending K.S.A. 1990 Supp. 65-1,108 and
10 repealing the existing section. → 1989 Supp. 65-1,107,
11

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

13 Section 1. ~~K.S.A. 1990 Supp. 65-1,108 is hereby amended to~~ → See attachment 1.
14 read as follows: 65-1,108. (a) It shall be unlawful for any person or → Sec. 2

15 laboratory to perform prenatal tests for syphilis, tests for human
16 immunodeficiency virus or tests for controlled substances included
17 in schedule I or II of the uniform controlled substances act unless
18 the laboratory in which such tests are performed has been approved
19 by the secretary of health and environment to perform such tests.
20 Any person violating any of the provisions of this section shall be
21 deemed guilty of a class B misdemeanor.

→ or any rules and regulations adopted under this section
→ , after notice and hearing in accordance with the Kansas administrative
→ procedures act, be subject to suspension, denial or revocation of approval
→ granted hereunder and a civil penalty not to exceed \$500.
→ Facilities performing controlled substance testing utilizing urinalysis
→ tests approved by the secretary of health and environment, pursuant to
→ K.S.A. 1988 Supp. 65-1,107 (b) as amended.

22 (b) As used in this section and in K.S.A. 65-1,107 and amend-
23 ments thereto, "laboratory" shall not include: (1) ~~The office or clinic~~ →
24 ~~of a person licensed to practice medicine and surgery in which~~ →
25 ~~laboratory tests are performed as part of and incidental to the ex-~~
26 ~~amination or treatment of a patient of such person;~~ (2) the Kansas
27 bureau of investigation forensic laboratory; (3) ~~urinalysis tests for~~
28 ~~controlled substances performed only for management purposes on~~
29 ~~inmates, parolees or probationers by personnel of the department~~
30 ~~of corrections or office of judicial administration and which shall not~~ → or
31 ~~be used for revoking or denying parole or probation;~~ (4) ~~urinalysis~~

32 ~~tests approved by the secretary of corrections for controlled sub-~~
33 ~~stances performed by the community corrections programs;~~ (5) ~~uri-~~
34 ~~nalysis tests approved by the secretary of corrections for controlled~~ → Delete
35 ~~substances performed by personnel of the community correctional~~
36 ~~conservation camp in Labette county which is operated under agree-~~
37 ~~ments entered into by the secretary of corrections and the board of~~
38 ~~county commissioners of Labette county pursuant to K.S.A. 1990~~
39 ~~Supp. 75-52,132 and amendments thereto; or (5) (6) urinalysis tests~~
40 ~~performed for management purposes only by personnel of alcohol~~
41 ~~and drug treatment programs which are licensed or certified by the~~
42 ~~secretary of social and rehabilitation services.~~

43 Sec. 2. ~~K.S.A. 1990 Supp. 65-1,108 is hereby repealed.~~ → 3
→ 1989 Supp. 65-1,107

1 Sec. 3. This act shall take effect and be in force from and after
2 its publication in the Kansas register.

2-3

SB1

* Attachment 1

Section 1. K.S.A. 1988 Supp. 65-1,107 is hereby amended to read as follows: 65-1,107. The secretary of health and environment is hereby authorized and empowered to promulgate rules and regulations establishing:

(a) The procedures and qualifications for approving laboratories performing prenatal tests for syphilis, tests for human immunodeficiency virus and tests for controlled substances included in schedule I or II of the uniform controlled substances act;

(b) *the procedures, qualifications of personnel and standards of performance of urinalysis screening used in limited application for controlled substances included in schedule I or II of the uniform controlled substances act. Such tests shall not be used for (1) employee testing, (b) medical treatment, (c) revoking or denying any sentencing option under K.S.A. 1990 Supp. 21-4603, or (d) evidence in any court proceeding or administrative hearing other than prison disciplinary hearings.*

(c) *a list of approved urinalysis screening tests for controlled substances included in 65-1,107(b).*

(b) (d) the procedures, qualifications of personnel and standards of performance in the testing of human breath for law enforcement purposes, including procedures for the periodic inspection of apparatus, equipment and devices, other than preliminary screening devices, approved by the secretary of health and environment for the testing of human breath for law enforcement purposes;

(e) (e) the requirements for the training, certification and periodic testing of persons who operate apparatus, equipment or devices, other than preliminary screening devices, for the testing of human breath for law enforcement purposes;

(d) (f) criteria for preliminary screening devices for testing of breath for law enforcement purposes, based on health and performance considerations; and

(e) (g) a list of preliminary screening devices which are approved for testing of breath for law enforcement purposes and which law enforcement agencies may purchase and train officers in the use of as aids in determining probable cause to arrest and grounds for requiring testing pursuant to K.S.A. 8-1001 and amendments thereto.

Kansas Department of Health and Environment
Proposed Regulations

28-33-__ . General Provisions (a) Definitions.

(1) "Department" means the department of health and environment.

(2) "Director" means the person responsible for the professional, administrative, and organizational duties of a facility.

(3) "Screening test" means a sensitive, rapid test designed to eliminate true negative specimens from further consideration.

(4) "Positive screening test" means a screening test that exceeds the threshold value for the test method employed.

(5) "Control" means a material used to evaluate the reliability of the entire test procedure. It is not a part of the test procedure.

(b) Personnel qualifications. The director of the facility shall assure that individuals performing screening tests be adequately trained to perform the test. Such training may be obtained from the vendor of the test being utilized.

(c) Procedures.

(1) Each test procedure shall be performed in accordance with the protocol provided from the manufacturer and approved by the KDHE.

(2) Detection limits for each test method shall be defined.

(3) Linearity studies, if required by the methodology, shall be performed on the instrument by the vendor.

(4) Quality control procedures shall include a positive and negative control at the frequency required by the method.

(5) Disposal of test materials and waste soiled with urine must comply with K.A.R. 28-29-27.

(d) Standards of Performance.

(1) Criteria shall be established to determine when test results are reliable.

(2) Results shall not be accepted when controls indicate the test run is not reliable.

(3) Control values shall be provided by the vendor for each lot of control material.

(4) Controls and reagents must be stored according to the manufacturing guidelines. Improperly stored controls and reagents must be discarded.

(5) The vendor shall provide a schedule for preventive maintenance on instruments. Schedules must be followed without modification.

(6) If procedures require specified temperature, the temperature must be verified by thermometer readings.

(7) The vendor shall provide instructions for monitoring instrument parameters to assess proper functioning of the instrument. Assessments shall be made prior to testing.



State of Kansas

Joan Finney, Governor

Department of Health and Environment
Kansas Health and Environmental Laboratory

Forbes Field, Bldg. 740, Topeka, KS 66620-0002

Acting

Stanley C. Grant, Ph.D., Secretary

(913) 296-

FAX (913) 296-

January 25, 1991

Charles Simmons, Chief of Legal Counsel
Department of Corrections
Landon State Office Building, Room 404-N
Topeka, Kansas 66612

Dear Mr. Simmons:

We understand the interests of the Department of Corrections in performing urine screening tests for controlled substances. We understand that these interests relate to simple preliminary drug tests which are used only for management purposes.

The Department of Health and Environment will work with the Department of Corrections to accomplish these interests without delay and without significant additional expense. In addition, it is our intent to establish regulations dealing with preliminary urine drug tests. These regulations will establish only essential minimum criteria necessary to ensure useful test results. It is our intent that these components will be limited to: (1) a proven test method for the detection of the analytes of interest, (2) a reliable analytical instrument, (3) operator training, and (4) routine use of positive and negative controls to assure that the test system is operating correctly. Preliminary draft regulations are enclosed.

It should be clearly understood, however, that at some time in the future, federal interpretation of CLIA '88 may require that all drug screening tests be performed in compliance with more stringent federal laboratory regulations. If the Department of Corrections elected to continue with drug tests under that circumstance, personnel credentials, quality assurance, recording keeping, and proficiency test components would be necessary. This agency does not intend to establish additional uniform requirements in advance of CLIA '88 regulations.

Sincerely,

RHC:bc

Roger H. Carlson, Ph.D.
Laboratory Director

2-7

Testimony
Senate Public Health and Welfare Committee
January 30, 1991

Senate Bill 55

Mr. Chairman, members of the Senate Public Health and Welfare Committee, I am Stuart M. Frager, Chair of the Council of Administrative Psychologists of the Department of Social and Rehabilitative Services. The problem addressed by SB 55 arose from Attorney General's Opinion No. 90-104 (attached) clarifying Kansas statutes covering the Registered Masters Level Psychologist Act. The specific issue is that a Masters degree in Psychology is a requirement for RMLP registration, even if the applicant has a doctorate in Psychology or has completed all the coursework and training requirements for a doctorate in Psychology with the exception of the dissertation or final paper. Currently I have a psychologist on my staff with a Ph.D. in Counseling Psychology from the University of Kansas who is still being paid as a student intern as she does not currently meet the requirements for her RMLP. This, of course, also limits her practice for the hospital.

The Council of Administrative Psychologists is requesting that the Senate Public Health and Welfare Committee consider the changes suggested Senate Bill 55. These changes were the result of input requested from a wide array of interested parties (see attached). The wording of this alternative bill has been structured to address the difficulties arising subsequent to the Attorney General's opinion without creating ambiguity in the statutes. Specifically the wording "at least a masters degree in psychology" (p.1, line 31) addresses the problem of those holding doctoral degrees without a masters degree. The wording "and during such master's and/or post masters coursework" (p.1, lines 32 & 33) clarifies when the required coursework is to be completed during the applicants post-graduate education. The section dealing with doctoral students who have completed all but dissertation or final paper (i.e., A.B.D.) would allow for registration, and subsequent hiring, of applicants, many of whom are from Kansas, after completing their coursework and training. The market for psychologists in the Midwest has become increasingly more competitive. This change would provide an opportunity to attract applicants earlier in their training before graduation providing one further avenue for hiring, and also for retaining Kansas students in Kansas, who are qualified by degree, education and training.

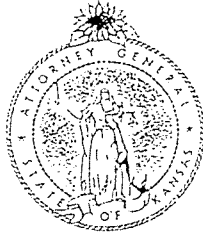
Lastly, the Council would like to request one change in the bill having to do with implementation date. The change is as follows: (p.3, lines 13 & 14) Sec. 3. "This act shall take effect and be in force from and after its publication in the Kansas Register." This change would benefit staff who are currently in limbo due to the problems this bill is meant to address from suffering several months delay. Thank you for your consideration.

Page 2

Testimony
Senate Public Health and Welfare Committee
January 30, 1991

Senate Bill 55

Stuart M. Frager, Ph.D.
Chair, Council of
Administrative Psychologists
Psychology Department
Topeka State Hospital
2700 West 6th
Topeka, Kansas 66606
Telephone: (913) 296-4413



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STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

September 7, 1990

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

ATTORNEY GENERAL OPINION NO. 90- 104

Mary Ann Gabel
Executive Director
Behavioral Sciences Regulatory Board
Landon State Office Bldg., 855-S
Topeka, Kansas 66612



Re: State Boards, Commissions and Authorities --
Regulation of Psychologists -- Registration of
Masters Level Psychologists; Qualifications for
Registration

Synopsis: To be registered as a master's level psychologist,
an applicant must first obtain a master's degree in
psychology as specified by statute. A person
engaged in a doctoral psychology program which does
not also confer a master's degree, and who
completes all course requirements except the
dissertation, may not be registered as a master's
level psychologist unless the applicant has met the
educational requirements through a separate
master's program. Cited herein: K.S.A. 1989
Supp. 74-5363, as amended by L. 1990, ch. 286,
§ 6.

* * *

Dear Ms. Gabel:

On behalf of the behavioral sciences regulatory board, you
have requested our opinion concerning educational requirements
for registration as a master's level psychologist (RMLP).
Specifically, you ask whether a person engaged in a doctoral
psychology program which does not confer a master's degree,

and who completes all course requirements but not the dissertation may be registered under the RMLP act.

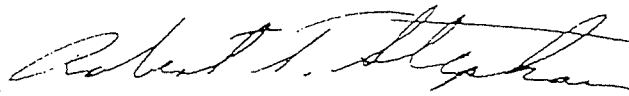
Persons desiring registration under the RMLP act must meet the requirements of K.S.A. 1989 Supp. 74-5363, as amended by L. 1990, ch. 286, § 6. Subsection (b)(2) was not amended by the 1990 law, and states that the applicant must have

"received at least a master's degree in clinical psychology . . . or . . . a master's degree in psychology and during such graduate program completed a minimum of 12 semester hours or its equivalent in psychological foundation courses . . . and 24 semester hours or its equivalent in professional care courses. . . ." K.S.A. 1989 Supp. 74-5363(b)(2), as amended by L. 1990, ch. 286, § 6.

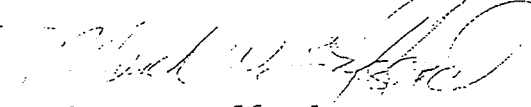
Based upon the grammatical construction of the statute, the phrase "or its equivalent" refers the number of hours of course work and not to the academic degree conferred or the type of courses required. C.f., Fox v. Board of Regents of State of N.Y., 527 N.Y.S.2d 652, 653 (A.D. 3 Dept. 1988). Thus, a master's degree must have been conferred on the applicant prior to registration as an RMLP.

In conclusion, it is our opinion that a person engaged in a doctoral psychology program which does not also confer a master's degree, and who completes all course requirements except the dissertation, may not be registered as a master's level psychologist unless the applicant has met the educational requirements through a separate master's program.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Mark W. Stafford
Assistant Attorney General

RTS:JLM:MWS:bas

C. ROBERT BORRESEN, Ph.D., *Chairman*
MARY ANN GABEL, *Executive Director*

BOARD MEMBERS:
Public Members
BETTIE E. DUNCAN
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Psychology
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DONALD J. FORT, Ph.D.

Social Work
CLARICE HARRIS, MSW
SHARON T. RUSSELL, MSW



Landon State Office Building
900 S.W. Jackson, Room 855-S
Topeka, Kansas 66612-1220
913/296-3240

BEHAVIORAL SCIENCES REGULATORY BOARD

LICENSED PROFESSIONALS:
Psychologists
Social Workers

REGISTERED PROFESSIONALS:
Master Level Psychologists
Professional Counselors

TESTIMONY BEFORE THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

S.B. 55

Wednesday, January 30, 1991

CHAIRPERSON EHRLICH, VICE-CHAIRPERSON LANGWORTHY, AND COMMITTEE MEMBERS:

I am Mary Ann Gabel, Executive Director of the Behavioral Sciences Regulatory Board, appearing before you today on behalf of the board and in support of S.B. 55.

The board first became aware of a possible omission in the existing statutes regarding the educational qualifications for registration as a masters level psychologist with the publication of the Attorney General's Opinion No. 90-104. A copy of the opinion is attached for your information.

The section of these statutes that establishes educational requirements for registration currently requires "at least" a master's degree in clinical psychology or "a" master's degree in psychology with specific coursework (see page 1, lines 28-40.) This means that a person with either a master's degree or a doctoral degree in clinical psychology may be eligible for registration while a person who has a doctoral degree in psychology but who has not received a master's degree in psychology is not eligible for registration. Doctoral psychology programs exist that do not confer masters' degrees. Persons enter these programs following completion of their baccalaureate degree, complete the coursework and dissertation, and receive a doctoral degree.

The proposed statutory amendments contained in Section 1.(b)(2) of S.B. 55 enables persons who graduate with doctoral degrees in psychology from programs that do not confer master's degrees or persons who possess doctoral degrees in psychology but whose masters' degrees are in areas other than psychology to register as masters level psychologists. Since the minimal educational requirement established by the legislature in 1987 is a master's degree in psychology, but board does not view this statutory amendment as lowering the educational standards, but rather a means of providing equity for persons who actually exceed the minimal educational requirements.

Senate P H&W
Attachment #4
01-30-91

I would call your attention to line 41 on page 1 where the wording states:

"met all the requirements for a Ph.D. or Psy.D.
[Emphasis added] in psychology with."

Combined or interdepartmental psychology programs exist that confer doctoral degrees in education. While the degree is in psychology, it is conferred as an "Ed.D." degree or Doctoral Degree in Education. The committee may wish to amend this line to read,

"met all the requirements for a Ph.D.--or-Psy.D. doctoral degree in psychology with."

I would also call your attention to Sec. 3. (page 3, lines 13-14) and request that the committee consider amending this legislation to take effect upon publication in the Kansas Register.

Thank you for allowing me an opportunity to appear before you today. I will be happy to attempt to answer any questions you may have.

Attachment

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TESTIMONY PRESENTED TO:
SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE
S.B. 55
January 30, 1991

By: Rebecca Rice
on behalf of
Association of Community Mental Health
Centers of Kansas, Inc.

Mr. Chairman and Members of the Committee:

My name is Rebecca Rice and I am representing the Association of Community Mental Health Centers of Kansas. We are not appearing as an proponent or opponent of S.B. 55 at this time, but would request an amendment. I have attached a balloon of the amendment which I am requesting.

The purpose of this amendment is to address the continuing problem the mental health centers are encountering in recruiting out of state personnel. The language of the statute requires at least a master's degree in clinical psychology based on a program of studies consistent with state universities of Kansas. Obviously, this requires evidentiary proof that the program is consistent with Kansas programs. The term "consistent" is undefined and therefore is left to the discretion of the Board of Behavioral Sciences. In addition, many programs and graduate programs in clinical psychology do not confer a master's degree in clinical psychology, but award a master's degree in psychology only. Therefore I have created language which would allow the university to notify the Board of Behavioral Sciences that the master's degree is in psychology, but was with an emphasis on clinical psychology or what is termed a clinical track.

Thank you Mr. Chairman. I would stand for any questions.

Senate P H&W
Attachment #5
01-30-91

SENATE BILL No. 55

By Committee on Public Health and Welfare

1-24

8 AN ACT concerning the registration of master level psychologists;
9 relating to qualifications for registration; amending K.S.A. 1990
10 Supp. 74-5363 and repealing the existing section.

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

12 Section 1. K.S.A. 1990 Supp. 74-5363 is hereby amended to read
13 as follows: 74-5363. (a) Any person who desires to be registered
14 under this act shall apply to the board in writing, on forms prepared
15 and furnished by the board. Each application shall contain appro-
16 priate documentation of the particular qualifications required by the
17 board and shall be accompanied by the required fee.

18 (b) The board shall register as a registered masters level psy-
19 chologist any applicant for registration who pays the fee prescribed
20 by the board under K.S.A. 1989 1990 Supp. 74-5365 and amend-
21 ments thereto, which shall not be refunded, who has satisfied the
22 board as to such applicant's training and who complies with the
23 provisions of this subsection (b). An applicant for registration also
24 shall submit evidence verified under oath and satisfactory to the
25 board that such applicant:

26 (1) Is at least 21 years of age;

27 (2) has received at least a master's degree in clinical psychology
28 based on a program of studies in psychology from an educational
29 institution having a graduate program in psychology consistent with
30 state universities of Kansas or has received *at least* a master's degree
31 in psychology and during such ~~graduate program~~ *master's or post-*
32 *master's coursework* completed a minimum of 12 semester hours or
33 its equivalent in psychological foundation courses such as, but not
34 limited to, philosophy of psychology, psychology of perception, learn-
35 ing theory, history of psychology, motivation, and statistics and 24
36 semester hours or its equivalent in professional core courses such
37 as, but not limited to, two courses in psychological testing, psycho-
38 pathology, two courses in psychotherapy, personality theories, de-
39 velopmental psychology, research methods, social psychology *or has*
40 *met all the requirements for a Ph.D. or Psy.D. in psychology with*
41 *the exception of the dissertation or final Psy.D. paper and during*
42 *such graduate program completed a minimum of 12 semester hours*

insert following "psychology" or a master's degree in psychology with a clinical emphasis, as defined by the educational institution

strike "consistent with state universities of Kansas"

strike "in psychology" on line 32