

Approved 4/10-91
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

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

10:00 a.m.~~pm~~ on April 3, 1991 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Joseph F. Kroll, Adult and Child Care, Department of Health and Environment
Sara Brandt, President of Kansas Speech-Language-Hearing Association
Chip Wheelen, Kansas Medical Society
John Peterson, Speech-Language-Hearing Association
Cathy Rooney, Department of Health and Environment

Chairman Ehrlich called the meeting to order at 10:00 a.m. and introduced two pages from Augusta, who assisted at the committee meeting, and his daughter and son-in-law from Hoisington.

HB 2485 - Abuse or neglect as grounds for prohibiting persons from maintaining certain homes for children.

Joseph Kroll, Department of Health and Environment submitted written testimony and appeared in support of HB 2485. He stated the bill was requested by SRS and amends the child care licensing statute to streamline the process that must be followed in confirming cases of child abuse. It amends Section (f) of K.S.A. 65-516 by removing the requirement that the alleged perpetrator be given notice of the proposed agency finding and an opportunity to reply formally concerning the proposed finding. Removing this requirement gives the alleged perpetrator an opportunity to move directly to the administrative appeals process. This process, however, is slowed down, and creates an unnecessary delay in the fair hearings process. Eliminating this one step would preserve the due process rights of the alleged perpetrator and at the same time better protect children by more timely action. (Attachment 1) Staff Furse brought attention to the Attorney General's opinion regarding language adopted and based on that opinion. Mr. Kroll stated he had talked with SRS and they have been in consultation with the Attorney General's office. The AG's office has endorsed this language.

HB 2104 - Licensure of speech language pathologists and audiologists.

Sara Brandt, Kansas Speech-Language Hearing Association, submitted written testimony and appeared in support of HB 2104. The bill, as amended by the House Committee, would create new law to license and regulate the practice of speech-language pathology and audiology. Ms. Brandt stated the main effect of licensure in Kansas would be to put all Speech-Language-Hearing professionals under the same credentialing umbrella. Licensure would set one standard for all professionals regardless of employment setting and require continuing education to make sure practicing professionals are up to date. Ms. Brandt also stated licensure would give consumers a way to identify qualified providers and recourse to deal with unethical practitioners. (Attachment 2) Grandfathering clause, credentialing, and teachers of the hearing impaired were discussed.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10:00 a.m./~~p.m.~~ on April 3, 1991

Chip Wheelen, KMS, submitted written testimony and stated his organization agreed with the KDHE Credentialing Committee and recommended HB 2104 be passed with one suggestion: On page 3, line 3, one member of the commission that regulates this profession include a person licensed to practice medicine or surgery and not just a "licensed physician". (Attachment 3)

John Peterson appeared in support of HB 2104 and concurred with Ms. Brandt's testimony. Staff Furse called attention to page 4, section 4, line 11, of the bill and suggested the language, "for a fee", be eliminated. Mr. Peterson agreed.

Cathy Rooney, Department of Health and Environment, submitted written testimony and stated the technical committee and the Secretary of Health and Environment found nine criteria were met and a need for credentialing exists. She stated the Secretary also felt harm resulted when unqualified practitioners provided inappropriate services. The issue primarily revolves around the 190 bachelor's level practitioners, who entered the public school systems when minimal educational qualifications were set by the Kansas Department of Education at a bachelor's level, are competent to practice in their respective fields. Both the technical committee and the Secretary concluded that credentialing speech-language pathologists and audiologists would not address the issue of other licensed health care personnel providing services beyond training or using paraprofessionals inappropriately under the licensee's supervision. There was one policy concern regarding the amended bill that KDHE asks the legislature to consider and recommends, in addition to the teaching certificate in speech-language pathology or audiology, an applicant must have been actively engaged in the practice of speech-language pathology or audiology for at least three years of the last five years immediately preceding September 1, 1992. Other suggested changes included setting a time restriction for temporary licensure and reducing the number of times for renewal of a temporary license, adding to Section 12, page 8, the category of "temporary licensure fee" to the fees that must be set by the Secretary in rules and regulations. (Attachment 4) Credentialing and licensing requirements were discussed by the committee.

The Chairman asked for wishes of the committee on HB 2485. Senator Walker made the motion to recommend HB 2485 favorably for passage. Seconded by Senator Anderson. No discussion followed. The motion carried. Senator Anderson will carry the bill.

The Chairman asked for wishes of the committee on HB 2168. Senator Hayden made the motion to delete amendatory language on page 10 and 11 of the balloon of the bill. (Attachment 5) Senator Walker made a substitute motion to agree to the motion of Senator Hayden's and add balloon language on page 4. Senator Anderson seconded the motion. No discussion followed. The motion carried. Senator Walker made the motion to adopt the balloon language on page 9 and add the wording "granted under", preceding the word, "article", on line 39 of the bill. The motion was seconded by Senator Hayden. No discussion followed. The motion carried. Senator Walker made the motion to adopt the repealer, K.S.A. 65-2853. Seconded by Senator Hayden. No discussion followed. The motion carried. The wishes of the committee were asked on HB 2168 as amended. Senator Walker made the motion to recommend HB 2168 as amended favorably for passage. Seconded by Senator Hayden. No discussion followed. The motion carried. The bill will be carried by Senator Walker.

The Chairman asked for wishes of the committee on HB 2019 - Pilot projects by local health departments to provide outpatient none-emergency primary care services. Senator Walker made the motion to recommend HB 2019 favorably for passage. The motion was seconded by Senator Hayden. Discussion followed regarding the fiscal impact, which is subject to appropriations. The motion carried. Senator Walker will carry the bill.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S Statehouse, at 10:00 a.m.~~p~~.m. on April 3, 1991

The Chairman asked for wishes of the committee regarding SB 403 - Creating Kansas Commission on the future of health care. After explaining his amendments to SB 403, Senator Walker made the motion to delete language on page 2, line 15, after the word, "representatives," and all of lines 16 through 22, and also add language which would allow the governor to appoint a director who is trained and experienced in the field of medical or health care ethics, and to recommend the bill as amended favorably for passage. The motion was seconded by Senator Salisbury. Staff Furse called attention to page 2, line 7, "5" should be changed to "4". Senator Walker agreed to that change as a part of his motion. No discussion followed. The motion to amend the bill carried. On the motion to report the bill, Senator Salisbury called attention to the funding for the bill with concern regarding the fiscal impact. Discussion followed regarding the health insurance crisis, and the fact this bill would be a start to involve the public. Following discussion, the motion to report the bill as amended favorably for passage carried. Senator Salisbury requested to be recorded as voting "No". Senator Walker will carry the bill.

The Chairman called upon Elizabeth Taylor, who stated on behalf of the Kansas Association of Local Health Departments, her association would only support the bill if the amendment to address the maintenance of effort policy is adopted. The Chairman asked for wishes of the committee on HB 2018. Senator Walker made the motion to adopt the balloon amendments on page 2 and the deletion of subsection (b) on page 5 proposed by the Department of Health and Environment. No discussion followed. The motion carried. Senator Anderson made the motion to recommend HB 2018 as amended favorably for passage. The motion was seconded by Senator Hayden. No discussion followed. The motion carried. (Attachment: 6)

The meeting was adjourned at 11:01 a.m.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 4-3-91

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

(PLEASE PRINT) NAME AND ADDRESS	ORGANIZATION
MARGARET FARLEY	KINH
St. Peter's Center	"
Joseph Heger	KDHE
Charles Smith	KS Foundation for Medical Care
Meryl Coleman	Self
Cathy Brown	KDHE
Jh. Kuter	K - Special - Health Care
Daralok Brandt	KSNA
Patricia Rose	KSNA
Barry K. Molinerix	KSNA
Wendell STROM	AARP - CCTF
Roger D. KIRKWOOD	AARP - CCTF - Topeka
Andy Martin	Sen. Ehrlich's Intern
Karla + Jon Patton	Sen. Ehrlich's family
Richard Morrissey	KDHE
JACK GRASHUIS	Z.D.S. OVP KS.
Chip Wheelen	KS Med. Soc.
Harold Riemer	KAM
ELIZABETH E. TAYLOR	ASSO OF LOCAL HEALTH



State of Kansas

Joan Finney, Governor

Department of Health and Environment Division of Health

Stanley C. Grant, Ph.D.,
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Testimony Presented to the
Senate Public Health and Welfare Committee

on

House Bill 2485

K.S.A. 65-516 is an act which prohibits persons with certain convictions, adjudications, or validated child abuse or neglect from living, working or volunteering in a home for children requiring regulation by the Kansas Department of Health and Environment.

Subsection (f) requires that certain administrative procedures be followed prior to SRS validating abuse or neglect. HB 2485 amends subsection (f) by removing the requirement that the alleged perpetrator be given notice of the proposed agency finding and an opportunity to reply formally concerning the proposed finding. Removing this requirement gives the alleged perpetrator an opportunity to move directly to the administrative appeals process.

The requirement to give notice and an informal review of the proposed finding has created an unnecessary delay in the fair hearings process impeding the timely resolution of complaint investigations. It is anticipated that eliminating this one step will preserve the due process rights of the alleged perpetrator and at the same time better protect children by more timely action. It is not unusual for the current process to take months and sometimes years to achieve resolution.

More timely resolution of complaint investigations by SRS will favorably impact KDHE in the areas of program effectiveness and efficiency. Interagency collaboration will be enhanced and duplication of effort will be reduced.

Department's Position

Support the passage of HB 2485 as written.

Testimony

Presented by: Joseph F. Kroll, Director
Bureau of Adult and Child Care
Kansas Department of Health and Environment
April 3, 1991

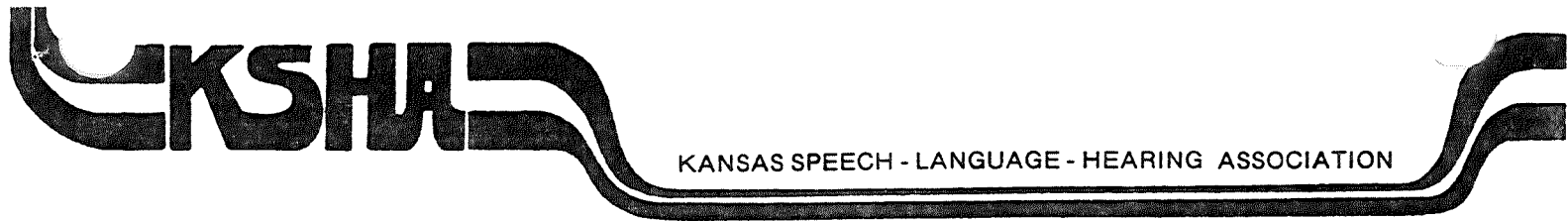
Senate P H&W
Attachment #1

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4-3-91
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KANSAS SPEECH - LANGUAGE - HEARING ASSOCIATION

Testimony to Senate Public Health & Welfare Committee

April 3, 1991

Sara Dale Brandt, Ph.D., CCC-SLP
President, Kansas Speech-Language-Hearing Association

Re: HB 2104 - Licensure of Speech-Language Pathologists and
Audiologists

You have a written copy of my remarks to the House Public Health and Welfare Committee. Let me make two points today, then I would be happy to answer any questions.

First, this Legislative session is proceeding rapidly and I am sure there is concern about whether there will be adequate time to consider a licensure bill. Let me assure you that our application for licensure has been studied extensively. We filed our intention to seek licensure as soon as the new technical committee review process was developed. Our application was accepted for review in 1989-90. It was the only licensure application to be reviewed that year so the committee had extra time to spend on the process.

The application, as I'm sure you know, addresses over 100 specific questions about the need for and the effect of licensure. Our written responses and supporting documentation is hundreds of pages long. If you have not yet seen our application, we will be sure to make one available to the Public Health & Welfare Committee. The seven member Technical Committee had several months to review the application, then heard over three hours of verbal testimony from the Kansas Speech-Language-Hearing Association. In January, the committee held a preliminary fact-finding meeting, during which there was additional explanation and dialogue with KSHA leaders. The committee found that our application had met all nine statutory criteria including the evidence of real harm from the unregulated practice of the profession. It is my understanding that it is very unusual for any application to meet all nine criteria after the first hearing. In March, a public hearing was held. Testimony was heard from allied professionals and from consumers. All testimony spoke to the need for licensure. There was no testimony opposing licensure. In their final meeting, the Technical Committee agreed that the application had indeed met all nine criteria and they recommended that the appropriate level of credentialing was licensure. Thirty-nine other states license Speech-Language Pathologists/Audiologists and seven more are actively pursuing

Senate P H&W
Attachment #2
4-3-91

2/Testimony

licensure. Not one state has rescinded licensure during sunset review in the 26 years since Florida passed the first law.

Second, the main effect of licensure in Kansas will be to put all Speech-Language-Hearing professionals under the same credentialing umbrella. As it is now, we have a confusing disparity between professionals who are certified by a national organization and those who hold certification from the State Department of Education allowing them to work in the schools. While these two certificates should be comparable, they in fact aren't and do not allow professionals to work in areas where they are not certified, even though the qualifications are similar.

Licensure will set one standard for all professionals regardless of employment setting. This should actually improve availability of personnel and flexibility of employment.

Licensure will require continuing education to make sure practicing professionals are up to date.

Licensure will give consumers a way to identify qualified providers and recourse to deal with unethical practitioners.



KANSAS MEDICAL SOCIETY

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April 3, 1991

TO: Senate Public Health and Welfare Committee
FROM: Kansas Medical Society *Chap W. Freelen*
SUBJECT: House Bill 2104; Licensure of Audiologists

Thank you for the opportunity to testify on HB 2104. This subject was discussed rather extensively by the KMS Legislative Committee, which concluded that the potential harm to the public that is posed by noncredentialed persons practicing audiology or speech-language pathology is sufficient to warrant licensure of this category of health care professional. In other words, we concur with the KDHE Credentialing Committee.

We pointed out a number of concerns to the House Committee and requested amendments which were incorporated in the bill. Because our concerns have been addressed, we respectfully recommend that you report HB 2104 favorable for passage.

CW/cb

Senate P H&W
Attachment #3
4-3-91



State of Kansas

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Division of Health

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TESTIMONY PRESENTED TO
THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
by
THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

House Bill 2104 as Amended

The Credentialing Review Program, established by request of the legislature, requires health occupations seeking state credentialing (licensure/registration) of members of their occupations to submit a credentialing application to the Kansas Department of Health and Environment (KDHE) for review. The Kansas Speech, Language, and Hearing Association submitted a credentialing application and the application has gone through the review process. This association desires speech-language pathologists and audiologists to be licensed by the state. House Bill 2104 provides such licensing.

A seven-member technical committee consisting of three currently credentialed health care personnel and four consumers conducted three public meetings and one public hearing to review the application. The technical committee forwarded its report to the Secretary of Health and Environment. A final report by the Secretary was issued to the legislature on July 19, 1990 (both reports are attached).

Statutes require that the technical committee and the Secretary must find that the information in the application and the information gathered during the meetings and the hearing document that the nine statutory criteria (KSA 65-5006) are met and that a need for credentialing exists before a recommendation for credentialing can be made. KSA 65-5003(d) further states that the applicant has the burden of proof of providing evidence upon which findings can be made. This proof must be clear and more than hypothetical examples or testimonials.

The technical committee and the Secretary found that the nine criteria are met and that a need for credentialing exists. Since the criteria were found met and a need shown for credentialing, the technical committee and the Secretary then applied criteria established in KSA 65-5007 to determine the appropriate level or levels of credentialing to protect the public from the causes of the harm documented by the applicant.

Senate P H&W
Attachment #4
4-3-91

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The statutes define credentialing to include "other statutory regulation," registration, and licensure. "Other statutory regulation" can include criminal prohibitions, injunctive remedies, etc. Registration creates title protection of an occupation and allows the public to identify practitioners (through the practitioner's use of the title) who possess the educational requirements of the occupation. Others may practice the occupation but may not advertise themselves as members of the occupation. Licensure limits only those persons with licenses to practice the occupation as well as protects the title of the occupation.

KSA 65-5001 also instructs the technical committee and the Secretary that the recommendation for the level of credentialing should be the least regulatory means of assuring public protection. The least regulatory means of credentialing is "other statutory regulation" besides licensure or registration, then registration, with licensure being the most regulatory means available.

The technical committee recommended licensure which would limit the scope of practice of the occupations to only qualified personnel. The Secretary recommended that the legislature consider a lesser form of credentialing. The Secretary recommended that a law be enacted which sets the current Kansas Department of Education's standards of education which is a master's degree or higher in the respective field for speech-language pathologists and audiologists who work in the public school systems. In addition, the Secretary recommended that all bachelor's level practitioners employed in the public school systems be required to demonstrate initial competency of the occupations by passing a standardized competency examination. Such an examination on a national level is provided by Educational Testing Services.

The reason for the Secretary's recommendation was to address the issue of potential harm caused by bachelor's level speech-language pathologists and audiologists. Research has shown that bachelor's level speech-language pathologists and audiologists do not have all the necessary skills of the profession. There are 190 bachelor's level practitioners in Kansas providing services in the public school systems. Evidence provided by the applicant showed that harm was caused by unqualified practitioners (primarily bachelor's level speech-language pathologists or audiologists) or licensed health care personnel practicing beyond training or employing unqualified persons to provide services. In the majority of the cases of documented harm, the harm was not life threatening. Often the inappropriate actions of the practitioners delayed appropriate treatment and resulted in emotional distress and/or financial repercussions.

Both the technical committee and the Secretary concluded that credentialing speech-language pathologists and audiologists would not address the issue of other licensed health care personnel providing services beyond training or using paraprofessionals inappropriately under the licensee's supervision.

As you are aware, the credentialing review process is only advisory to the legislature. The statutes state that the Secretary is not bound by the technical committee's recommendations nor the legislation by the Secretary's recommendations.

Should the legislature pass House Bill 2104 as amended, KDHE would become the agency responsible for implementing the licensure law for speech-language pathologists and audiologists.

There is one policy concern regarding the amended bill that KDHE asks the legislature to consider. In Section 6(d)(3) on page six, the "grandfather" clause only requires teachers desiring to be licensed to hold a teaching certificate in the occupation. Since the basis of potential harm involved the issue of competency of bachelor's level practitioners (which includes some 190 practitioners) practicing in the public school systems, KDHE recommends that this provision of the bill be strengthened with employment conditions. The specific recommendation is:

In addition to the teaching certificate in speech-language pathology or audiology, an applicant must have been actively engaged in the practice of speech-language pathology or audiology for at least three years of the last five years immediately preceding September 1, 1992.

In a "grandfather" clause, it is customary to substitute formal education or supervised experience requirements with employment conditions.

There are two administrative issues regarding the amended bill that KDHE asks the legislature to consider:

- 1 Setting a time restriction for temporary licensure and reducing the number of times for renewal of a temporary license. The way Section 6(f) on page six is currently worded a temporary license could be granted to cover a two-year period or more and can be renewed two more times if the applicant has not passed the test. This time period is excessive (e.g., initial licenses are only good for two years). KDHE suggests that this section read as follows:

The Secretary, upon application, payment of the temporary licensure fee, and submission of evidence of successful completion of the education and supervised clinical practicum experiences, may issue a temporary license. The temporary license shall expire nine months from the date of issuance. The temporary license may be renewed for one period not to exceed nine months by appeal to the Secretary if the applicant has failed the examination or failed to complete the postgraduate professional experience.

- 2 Adding to Section 12 on page eight the category of "temporary licensure fee" to the fees that must be set by the Secretary in rules and regulations.

Your consideration of the issues addressed above is appreciated.

Testimony

Presented by: Cathy Rooney, Director
Health Occupations Credentialing
Bureau of Adult and Child Care
April 3, 1991

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

EXECUTIVE SUMMARY OF THE FINAL REPORT
SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS'
CREDENTIALING APPLICATION

July 19, 1990

The Secretary of Health and Environment Recommends to the Legislature:

I have found that all of the criteria established by KSA 65-5006 were met and that a need for credentialing of speech-language pathologists and audiologists exists.

The potential for harm to the public documented in Criterion I revealed that harm resulted when unqualified practitioners (speech-language pathologists and audiologists trained at the bachelor's level and other health care professionals practicing beyond training or employing unqualified personnel) provided inappropriate services. Harm primarily consisted of patients experiencing unnecessary delays in developing speech-language skills, emotional distress, financial repercussions, and, in three cases, unnecessary surgery. It was also shown that the potential for harm exists. Research demonstrates that the bachelor's level speech-language pathologists and audiologists do not have all the necessary skills of the occupations. Therefore, the issue primarily revolves around assuring that the 190 bachelor's level practitioners who entered the public school systems when the minimal educational qualifications were set by the Kansas Department of Education at a bachelor's level in the respective fields who are still employed are competent to practice. Credentialing of speech-language pathologists and audiologists would not address the issue of other health care personnel providing services beyond training or employing unqualified personnel.

In accordance with KSA 65-5007, I recommend that the legislature consider the least regulatory means to assure the public's protection in regard to the harm documented in Criterion I. The least regulatory means would be to enact a bill that would set into law the current Department of Education's standards of education (master's degree or higher in respective field) for speech-language pathologists and audiologists who work in the public school systems and require all bachelor's level practitioners employed in the public school systems to demonstrate competency through successfully passing a standardized competency examination. This measure should adequately address the issues raised in Criterion I and afford the public protection from unqualified practitioners.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

Final Report to the Legislature from the
Secretary on the Application for Credentialing
Speech-Language Pathologists and Audiologists

July 19, 1990

The Kansas Speech, Language, and Hearing Association (KSHA), referred to as the applicant, submitted to the Kansas Department of Health and Environment a credentialing application to be reviewed through the credentialing review program. The applicant seeks to make it against the law for anyone to perform services as a speech-language pathologist or as an audiologist unless he/she is licensed as a speech-language pathologist or licensed as an audiologist. In addition, the titles to be protected for a licensed speech-language pathologist include: speech pathologist, speech therapist, voice therapist, etc. The titles to be protected for a licensed audiologist would include: audiologist, audiometrist, hearing therapist, etc.

The application has been reviewed according to the Kansas Credentialing Act (KSA 65-5001, et seq) by a technical committee and the Secretary of Health and Environment. The purposes of the review are to: (1) provide the legislature with a thorough analysis of the application and information gathered at the technical committee meetings; (2) make recommendations on whether the statutory criteria are met and whether there is a need for credentialing; and (3) recommend, if necessary, an appropriate level of credentialing to protect the public from the documented harm. The legislature is not bound by these recommendations.

In accordance with state laws, a seven-member technical committee conducted four fact-finding meetings, which included one public hearing, to investigate the issues. Attached is a copy of the final report of the technical committee.

The statutes require that all of the criteria in KSA 65-5006 be found met and a need for credentialing exists prior to the technical committee and the Secretary recommending that an applicant group be credentialed. The technical committee found that all of the criteria have been met. I concur with the technical committee's findings and conclusions about the criteria. In summary, the technical committee found:

- The applicant has met Criterion I by demonstrating that "the unregulated practice of speech-language pathology and audiology can harm the public and the potential for such harm is recognizable and not remote."

Evidence showed that harm resulted when unqualified practitioners (speech-language pathologists and audiologists trained at the bachelor's level and other health care professionals practicing beyond training or employing unqualified personnel) provided inappropriate services. In the 11 cases, harm primarily consisted of patients experiencing unnecessary delays in developing speech-language skills, emotional distress, financial repercussions, and

in three cases, unnecessary surgery. Although harm was usually not life threatening, the potential for harm appears to exist. For example, research demonstrated that bachelor's level speech-language pathologists and audiologists do not have all of the necessary skills of the occupations. In Kansas, there are 190 persons who only have a bachelor's degree in respective fields employed as speech-language pathologists or audiologists in the Kansas public school systems.

- The applicant has met Criterion II by demonstrating that "the practice of speech-language pathology and audiology requires an identifiable body of knowledge or proficiencies that is acquired through a formal period of advanced study and training." The public would benefit from initial and ongoing training of practitioners.

Evidence showed that there appears to be an identifiable body of knowledge with the American Speech-Language-Hearing Association (ASHA) accredited master's or doctorate level programs. A master's degree is considered the minimum academic training for the occupations. However, the applicant's bill proposal allows a person with an equivalent master's degree to be licensed. The technical committee concluded that full completion of a program is necessary for initial training to benefit the public. In addition, the technical committee concluded that since bachelor's level practitioners were the primary source of potential harm, as documented in Criterion I, there should be some mechanism in the "grandfather" section of the licensure law to require bachelor's level employed speech-language pathologists and audiologists to demonstrate initial competency (e.g., passing the national examination) not just showing proof of employment in the field. Without this provision, the argument for credentialing is moot. Therefore, the criteria is met only if some mechanism is incorporated to obtain competency from bachelor's level persons being "grandfathered" into the process, a time frame for the "grandfathering" period, and that the standards for education be a master's degree or higher rather than allowing an equivalent master's degree.

- The applicant has met Criterion III by demonstrating that "the clinical work of the occupations is not necessarily subject to the supervision by another health care person or in an inpatient facility."

Evidence showed that 53 percent of speech-language pathologists and audiologists work in a school environment; 15 percent, in hospitals; eight percent, in rehabilitation units; four percent, in private physician offices; and seven percent, in their own offices. Practitioners appear to operate under their own supervision, even in inpatient facilities.

- The applicant has met Criterion IV by illustrating that the public is not effectively protected from the potential for harm from bachelor's level practitioners in the school systems, unqualified practitioners in private practice, and from other health care personnel providing services beyond

their training. However, it was never proven through Criterion I that private practitioners are a threat to the public. In addition, credentialing of speech-language pathologists and audiologists would not address the issue of other health care personnel providing services beyond training.

During the review, evidence did show that private certification and other means besides state credentialing are in place and do provide the public some protection. For example, to receive Medicare or Medicaid reimbursement for services, the practitioner must be privately certified by the American Speech-Language-Hearing Association. Other protection is offered by the requirement that one must be licensed by the Kansas Board of Hearing Aid Examiners to fit and dispense hearing aids. Nationally, 53 percent of the practitioners work in schools and, in the Kansas public school systems, to practice one must be certified as a teacher and have a master's degree in the respective field. However, the problem arises since previous educational standards for employment in the school systems only required a bachelor's degree in the respective field. Some 190 bachelor's level practitioners are employed in the Kansas public school systems.

- The applicant has met Criterion V by showing that "the effect of credentialing on the cost of health care to the public is minimal."

From the information provided, the two occupations already receive third-party reimbursement for services provided and a part of the cost of state regulation would be borne by the occupations through the licensure fee.

- The applicant has met Criterion VI by illustrating that credentialing of the occupations probably would have a minimal effect on availability of speech-language pathologists and audiologists practicing in Kansas.

Kansas ranks better than the national ratio of privately certified speech-language pathologists and audiologists per 100,000 population. The ratio nationally is 20.9/100,000 population where Kansas is at 26.5 speech-language pathologists and audiologists per 100,000 population. The applicant's proposal included a "grandfather" clause to allow some individuals already employed to be licensed. In Kansas there are some 1,009 privately certified speech-language pathologists and 65 audiologists.

- The applicant has met Criterion VII by drafting "scope of practices for the occupations that are identifiable."

The scope of practice for speech-language pathologists includes: (1) preventing, identifying, evaluating, consulting, habilitating, rehabilitating, instructing, and researching; (2) determining the need for personal augmentative communication systems, recommending such systems and providing training in utilization of such systems; and (3) planning, directing, conducting, or supervising such

services. The scope of practice for audiologists includes: (1) preventing, identifying, evaluating, consulting, habilitating or rehabilitating (other than hearing aid or other assistive listening device dispensing), instructing, and researching; (2) participating in hearing conservation; (3) providing auditory training and speech reading; (4) conducting tests of vestibular functions; (5) evaluating tinnitus; and (6) planning, directing, conducting, or supervising services.

- The applicant has met Criterion VIII by demonstrating that the "effects of credentialing speech-language pathologists and audiologists on the scope of practice of other health care personnel appears to be minimal."

Information provided showed that the applicant's proposal would not affect other licensed practitioners (physicians, physician assistants, nurses, hearing aid dealers, occupational therapists, and respiratory therapists) who perform the same or similar functions as speech-language pathologists and audiologists but at different levels of skills and training. Paraprofessionals would still be able to perform functions under the supervision of speech-language pathologists and audiologists or licensed health care professionals.

- The applicant has met Criterion IX by demonstrating that there are "nationally recognized standards of education that exist for the practice of the occupations."

There are nationally recognized standards of education and these standards are identifiable in the American Speech-Language-Hearing Association (ASHA) accredited master's or doctorate degree programs in these fields. In Kansas, four universities offer ASHA-accredited speech-language pathology programs and two universities offer ASHA-accredited audiology programs.

The technical committee found that all of the criteria established in KSA 65-5006 have been met and that there is sufficient need shown for the credentialing of speech-language pathologists and audiologists. Since all of the criteria are found met and a need for credentialing exists, the next step in the process is to apply criteria established in KSA 65-5007 to determine the appropriate level or levels of credentialing to protect the public.

LEVEL OF CREDENTIALING

Credentialing should be aimed at helping alleviate the problems documented in Criterion I which are associated with unqualified practitioners, primarily bachelor's level speech-language pathologists and audiologists providing inappropriate services. There are three credentialing options (statutory regulation, registration, and licensure) specified in KSA 65-5007. **This statute further instructs that the recommendation for the level of credentialing should be the least regulatory means of assuring protection. The least regulatory means of credentialing as defined in KSA 65-5007 is "other regulatory means," then registration, with licensure being the most regulatory means available.**

The technical committee found no evidence that other regulatory actions have been pursued or are being considered by other states in the form of criminal or civil laws or injunctive remedies to address the issue of harm. The technical committee went on to conclude that the scopes of practice of speech-language pathologists and audiologists should be restricted to qualified personnel. Therefore, the technical committee recommended licensure as the appropriate level of credentialing to protect the public from unqualified practitioners. Although licensure is one way to protect the public, I conclude that there is a less regulatory measure that would assure public protection.

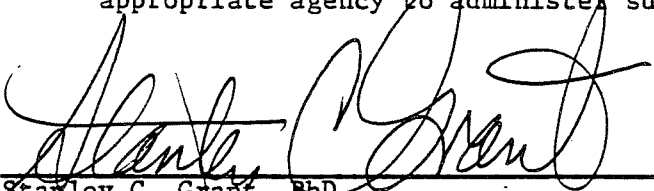
The basis for finding Criterion I met was the documentation provided about four bachelor's trained speech-language pathologists and three bachelor's trained audiologists who provided inappropriate services causing patients and families to experience emotional distress, financial repercussions, and/or delays in some patients developing speech-language skills. Any type of credentialing of speech-language pathologists and audiologists would not necessarily have an impact on the documented cases where licensed health care professionals practiced beyond training or employed an unqualified person in the area of speech and language therapy. Therefore, the issue primarily revolves around assuring that the 190 bachelor's level practitioners who entered the public school systems when the minimal educational qualifications were set by the Kansas Department of Education at a bachelor's degree level in the respective fields who are still employed are competent to practice. (The current standard is a master's degree or higher in the respective fields and it is the same standard that a licensure law would require; therefore, the current standard protects the public from the potential harm documented in Criterion I.)

In keeping with the requirement that the least regulatory means for protecting the public should be recommended, I propose that the legislature consider legislation to set into law the current Department of Education's standard of education (master's degree or higher in respective field) for speech-language pathologists and audiologists who work in the public school systems and require all bachelor's level practitioners currently working in the school systems to prove competency by passing a standardized competency examination. This measure would adequately address the issues raised in Criterion I and afford the public protection from unqualified practitioners.

Secretary's Conclusions and Recommendations

- 1 I have found that all of the criteria established by KSA 65-5006 are met and a need for credentialing exists.
- 2 In accordance with criteria established by KSA 65-5007, I recommend that the legislature pursue "other regulatory means" to assure public protection by setting into law the current Department of Education's standard of education (master's degree or higher in respective field) for speech-language pathologists and audiologists who work in the public school systems and require all bachelor's level practitioners currently working in the school systems to prove competency by passing a standardized competency examination.

- 3 KSA 65-5005 delineates that the Secretary is to identify the appropriate agency for the credentialing process. Should a competency test be administered, the Department of Education is my recommendation for the appropriate agency to administer such a requirement.



Stanley C. Grant, PhD
Secretary of Health and Environment

19 July 1990

Date

FINAL FINDINGS AND CONCLUSIONS OF THE
TECHNICAL COMMITTEE ON THE REVIEW OF THE
APPLICATION TO LICENSE SPEECH-LANGUAGE
PATHOLOGISTS AND AUDIOLOGISTS

Technical Committee Meeting
March 9, 1990

Submitted to the Secretary
March 28, 1990

The Kansas Speech, Language, and Hearing Association (KSHA), cited in this report as the applicant, submitted a credentialing application to the Kansas Department of Health and Environment. The application was revised and resubmitted to conform with the current review process and to be consistent with the criteria established by the 1986 legislature.

The applicant desires the State of Kansas to require persons providing services as a speech-language pathologist or audiologist to be licensed in order to practice. Therefore, there could be two separate licenses issued - one for speech-language pathologists and one for audiologists. A person could be licensed in both areas if he/she meets all of the licensure conditions.

This report summarizes the final findings, conclusions, and recommendations of the technical committee regarding the credentialing application. The statutes require that all of the criteria must be found met and that a need for credentialing must be determined before a recommendation for credentialing can be made. In summary, the technical committee found all of the criteria have been met and that a need for credentialing exists. Information provided shows that unqualified practitioners (speech-language pathologists and audiologists trained at the bachelor's level and other health care professionals practicing beyond training or employing unqualified personnel) caused harm when inappropriate services were provided. Documented harm primarily consisted of patients experiencing unnecessary delays in developing speech-language skills, emotional distress, financial repercussions, and, in three cases, unnecessary surgery. The technical committee concluded that the scope of practice of the occupations should be restricted to qualified personnel. Thus, the technical committee recommended that the state enact a law to license speech-language pathologists and audiologists.

Summary of Application

The applicant desires to make it against the law for anyone to perform as a speech-language pathologist or as an audiologist unless he/she is licensed as a speech-language pathologist or licensed as an audiologist (Application, Appendix B, page 10). The proposal suggests that a person can be licensed in both areas if he/she meets the respective qualifications. According to the revised bill proposal, only licensed speech-language pathologists shall use the titles "speech pathologist," "speech therapist," "speech correctionist," "speech clinician," "language pathologist," "voice therapist," "voice pathologist," "logopedist," "communicologist," "aphasiologist," or "phoniatrist" (Application, Appendix B, page four, and Official Record, Exhibit 6b). The terms to be

protected for licensed audiologists are: "audiologist," "audiometrist," "hearing therapist," "hearing clinician," or "hearing aid audiologist" (Application, Appendix B, page six).

According to the applicant, "speech-language pathologists evaluate and treat consumers with communication disorders due to delay or failure to develop speech and language and loss of speech and language skills due to injury, stroke, and physical and medical problems" (Official Record, Exhibit 3, page one). An audiologist evaluates the functioning level of the auditory system, determines the type and degree of hearing deficit and auditory processing abilities, and/or manages the nonmedical aspects of hearing loss. In addition, audiologists provide rehabilitation other than hearing aid or other assistive listening device dispensing (Official Record, Exhibit 3, page one, and Exhibit 6B). In summary, to be eligible for a license as a speech-language pathologist or audiologist, one must: (1) have at least a master's degree or equivalent in speech-language pathology or audiology, (2) complete a supervised practicum experience in the particular field of study, (3) complete a postgraduate professional experience in the particular field of study, and (4) pass an examination (Official Record, Exhibit 6b). (See Criterion II, pages six through eight, for more information on educational standards.)

CRITERIA TO DETERMINE THE NEED FOR CREDENTIALING

The statutes require the technical committee to determine if the statutory criteria have been met by analyzing the application and information gathered at the meetings and the public hearing. This portion of the report summarizes the information provided and the findings and conclusions on whether each of the nine criteria are met.

CRITERION I

The unregulated practice of the occupation can harm or endanger the health, safety, or welfare of the public and the potential for such harm is recognizable and not remote.

Information Provided

According to the applicant, speech-language pathologists and audiologists provide services to all ages. However, the elderly and children populations are most in need of speech-language pathologist and audiologist services. For example, one-third of the 65 and older population have significant hearing losses. The highest prevalence of any handicap condition of preschoolers is speech-language disorders (Application, Appendix C, page six).

The applicant contends that harm to the client is due to unqualified persons providing services and qualified persons who have acted incompetently or unethically (Application, page 2, and Official Record, Exhibit 3). According to the applicant, a licensing law would rectify these situations by setting the qualifications for practitioners of the two professions and by identifying to the public and to other health care providers appropriate practitioners. In addition, a licensure law would set ethical standards of qualified practitioners and enforce such standards (Application, pages 12 and 42).

The applicant provided examples of two types of unqualified persons providing speech-language pathology services in Kansas which have resulted primarily in emotional and/or financial harm to a client or a client's family: (1) bachelor's level pathologists and (2) other health care professionals practicing beyond their training or employing unqualified personnel.

The applicant provided several incidents in Kansas where a bachelor's level practitioner provided inappropriate services causing harm.

A Kansas bachelor's level speech clinician provided inappropriate services in the school for an eighth-grade boy for eight years which made his stuttering worse to the point communication was almost impossible, resulting in emotional harm (Official Record, Exhibit 3).

A Kansas bachelor's level speech-language pathologist provided inappropriate eating advice to a head-injured patient which could have led to choking to death but resulted in emotional distress for the patient's family and financial harm due to cost of unnecessary tests (Official Record, Exhibit 3).

A Kansas private, bachelor's level speech clinician provided inappropriate speech services for six months to an eight-year-old hearing impaired child whose supposed problem was not opening his mouth wide enough. This resulted in inappropriate educational instruction and emotional harm (Official Record, Exhibit 11).

A Kansas bachelor's level school speech-language pathologist provided inappropriate speech services to cleft palate children when physical management was needed. This resulted in financial harm through inappropriate use of public dollars in the school system (Official Record, Exhibit 3).

A Kansas bachelor's level school audiologist gave inappropriate services to an eight-year-old hearing impaired child, resulting in inappropriate educational instruction and emotional harm (Official Record, Exhibit 11).

A bachelor's level person performed audiology evaluations in a physician's office which resulted in three young children being misdiagnosed. This caused a delay in appropriate rehabilitation and added expenses and anxiety for the parents (Application, Appendix E, Letter 6).

A bachelor's level Kansas school audiologist misdiagnosed a child as having a brain tumor, resulting in emotional distress and financial harm of unnecessary tests (Official Record, Exhibit 11).

The applicant supplied several cases where unqualified persons (those health care professionals practicing beyond training or employing unqualified personnel to perform services) caused a delay in appropriate treatment and emotional and/or financial harm and, in one case, a delay in speech and language skills development.

A Canadian physician delayed treatment for a child for a year because he was unaware that the child could be tested at an early age. A delay in development of speech and language skills resulted.

A Canadian physician explained to an elderly patient that he may need surgery. The elderly patient became suicidal over the issue (emotional harm). An audiologist concluded that he only needed a hearing aid (Application, Appendix D).

A Kansas physician employed a nurse (or his wife) to do hearing tests. In three cases, surgery was performed on ears with pure sensorineural hearing loss. The misdiagnoses were based on inaccurate testing leading to emotional and financial harm (Application, Appendix E).

A family physician misdiagnosed a hearing condition and a patient bought three different hearing aids over four years. After proper evaluation and surgery, the patient does not require a hearing aid and has normal hearing (Application, Appendix E).

The applicant contends that licensure is also necessary due to harm resulting from incompetent or unethical actions of qualified personnel. The most common complaints against licensed or certified speech-language pathologists and audiologists received by 14 state licensure agencies, two insurance companies, and 17 state associations who responded to a survey included: practicing without a license, practicing beyond scope permitted by law, incorrect or inadequate treatment, injury from equipment/premises, and moral fitness (Application Appendices C and H, page 36). Several examples of incompetent and unethical actions of qualified speech-language pathologists were provided in the application and testimony (Application, Appendix C, and Official Record, Exhibit 3). Unethical behavior included cases where the practitioner sexually exploited a young patient. An example of incompetency leading to harm was cited when a certified speech-language pathologist and audiologist failed to diagnose a hearing loss for one year in a child who was not talking. This resulted in delayed treatment and emotional distress (Official Record, Exhibit 11).

The applicant noted that ASHA-sponsored liability insurance carrier documented 20 claims filed in court against practitioners during March 1973 through May 1979 (seven claims) and February 1981 to July 1982 (13 claims). The claims varied from negligence to failure to refer (Application, page 24). Another court case in Minnesota resulted in a woman being convicted of Medicaid bill fraud for treatment provided to mentally retarded patients (Official Record, Exhibit 3). Another California woman was convicted of using false credentials to practice as a PhD speech-language pathologist (Official Record, Exhibit 3).

The applicant noted that a California Supreme Court ruled for the parents of a deaf child against an audiologist who failed to diagnose heredity deafness. On this information, the parents had a second child with the same disorder (Official Record, Exhibit 3).

Two examples of unqualified persons in Kansas using the title "audiologist" were documented in the application (Application, Appendix C; Appendix E, Letter 3b;

and Appendix G, pages four and five). The term "hearing aide audiologist" can still be used in Kansas inappropriately by nonaudiologists (Application, Appendix G, page one).

Potential for Harm

Several examples of possible physical, emotional, and/or financial harm to clients resulting from a practitioner's erroneous diagnosis or treatment or inappropriate use of devices are provided in the application (Application, pages 9-17, and Appendix C). In a majority of the examples, the possible harm was not life threatening. Often the inappropriate actions of the practitioner delayed correct treatment/rehabilitation, which might cause delays in developing speech and language skills, emotional distress, and financial repercussions. An example of what happens to the cost of services if delayed was provided as follows:

It is estimated that if special education begins at birth, the cost of such services per child is to the age of 18 would amount to \$62,776. If one waits until the child is school age to begin services, the cost would be \$78,848 etc. (Application, Appendix C, page 21, and Official Record, Exhibit 3).

A master's degree is considered the appropriate academic training for speech-language pathologists and audiologists. A study by ASHA on competency of bachelor's and master's degree speech-language pathologists found that bachelor-level speech-language pathologists rated themselves incompetent in 28 of 32 necessary skills of the profession (Application, Appendix C, page 24). The applicant stated, "There are 190 persons who only have a bachelor's degree employed as speech-language pathologists or audiologists in the Kansas public school systems" (Official Record, Exhibit 11). It is estimated that a majority of the 190 persons are speech-language pathologists, according to the applicant. National estimates noted that up to 30 percent of the individuals providing speech-language services do not meet minimum professional qualifications (Official Record, Exhibit 11, Letter 3b). One example of a nurse providing speech-language pathology services beyond training was cited by the applicant (Application, Appendix G). The applicant provided several examples of other Kansas health care personnel (e.g., nurses, chiropractors, and occupational hearing conservationists) providing audiology services beyond training (Application, Appendices E and G).

Findings

From the information provided, there appears to be evidence that harm occurs due to the unregulated practice of the occupations and that the potential for harm is recognizable and not remote. In the majority of the actual documented cases of harm, the harm was not life threatening. Often the inappropriate actions of the practitioner delayed appropriate treatment and resulted in emotional distress and/or financial repercussions. Documentation showed that harm to patients was often due to an unqualified person providing services. Two types of unqualified practitioners were documented: (1) bachelor's degree speech-language pathologists or audiologists, and (2) other health care personnel practicing beyond training or employing unqualified persons to provide services.

Research demonstrated that bachelor's level practitioners do not have all the necessary skills of the profession. There are some 190 bachelor's level practitioners in Kansas providing services in the public school system.

Conclusions

The criterion is met.

CRITERION II

The practice of the occupation requires an identifiable body of knowledge or proficiency in procedures, or both, acquired through a formal period of advanced study or training, and the public needs and will benefit by assurances of initial and continuing professional ability.

Information Provided

The tasks of a speech-language pathologist include: evaluate language and speech disorders; plan and implement treatment for problems identified; provide counseling to client, family, and/or care giver; administer treatment, supervision of paraprofessional, etc.; and coordinate research (Application, page six). The tasks of an audiologist include: evaluate standard tests and site of lesion test; treatment in the areas of lip-reading training, auditory training, and hearing conservation; counseling of client, family, or care giver; administer treatment, supervision of paraprofessionals, etc.; and conduct research (Application, page eight).

According to the American Speech-Language-Hearing Association (ASHA), to acquire the body of knowledge to perform tasks, one must have: (1) graduated from a master's or doctoral degree speech-language pathology or audiology program accredited by the Educational Standards Board of ASHA, (2) completed 375 clock hours of supervised clinical observation and practicum in the particular field of study provided by an approved educational institution, (3) completed 36 weeks of a clinical fellowship (full-time professional experience) in the particular field of study, and (4) passed the national examination in the particular field of study (Application, Appendix J, pages one through four).

The body of knowledge acquired from an ASHA-accredited speech-language pathology program includes 75 semester credit hours in biological/physical sciences, mathematics, behavior and/or social sciences, and the nature, prevention, evaluation, and treatment of speech, language, hearing, and related disorders. Thirty semester credit hours out of the 75 must be in speech-language pathology. Fort Hays State University, Kansas State University, University of Kansas, and Wichita State University offer ASHA-accredited speech-language pathology programs (Application, pages 27 and 28). The body of knowledge acquired from an ASHA-accredited audiology program includes 75 semester credit hours in biological/physical sciences, mathematics, behavioral and/or social sciences, and the nature, prevention, evaluation, and treatment of speech, language, and hearing disorders. Thirty semester credit hours out of the 75 must be in audiology. The University of Kansas and Wichita State University offer ASHA-accredited audiology programs (Application, pages 27-28).

Examples of new developments in the assessment and treatment of communication disorders and knowledge of language development were given in the application to illustrate the need for speech-language pathologists to keep up with current trends (Application, page 29). Examples of new developments in the devices used by practitioners were given in the application to illustrate the need for audiologists to keep up with current trends (Application, page 29). Opportunities to receive continuing education are available through workshops or seminars by ASHA sponsors. The revised legislation bill proposal allows the regulatory agency to establish conditions for the licensee to demonstrate continued competencies through participation in continuing education programs as a requirement for renewal of a license (Official Record, Exhibit 6b).

According to the revised bill proposal, to be eligible for a license as a speech-language pathologist or audiologist, one must: (1) have at least a master's degree or equivalent in speech-language pathology or audiology from an approved educational institution which consists of approved course work in the particular field of study, (2) complete a supervised practicum experience in the particular field of study, (3) complete a postgraduate professional experience in the particular field of study, and (4) pass an examination in the particular field of study (Official Record, Exhibit 6b). The applicant recommends that the education programs, supervised practicum experience, and postgraduate professional experience reflect standards set by the American Speech-Language-Hearing Association (ASHA).

There is a "grandfather" clause in the revised bill proposal. For a one-year period after the law becomes effective, one must show proof of employment in the practice of speech-language pathology or audiology for at least two out of a three-year period prior to the effective date of the act to receive a license in that field.

Findings

From the information provided, there appears to be an identifiable body of knowledge acquired through formal training provided in ASHA-accredited programs. The public would benefit from initial and ongoing training. The technical committee is concerned with the applicant's bill proposal in that it allows a person with an equivalent master's degree to be considered a candidate for licensure. Apparently an equivalent degree can refer to someone who has a doctorate or completed the course work but not some other item (e.g., thesis) necessary to complete the graduate program. The technical committee concluded that full completion of a program is necessary. Alternative language to set the standards to a master's degree or higher is recommended. In addition, the technical committee concluded that since bachelor's level practitioners were the primary source of potential harm as documented in Criterion I there should be some mechanism in the licensure process during the grandfather period of the licensure law to require them to demonstrate initial competency (e.g., passing the national examination). As the proposed bill stands, now a bachelor's level practitioner during the grandfather period would only have to show proof of employment as a speech-language pathologist or audiologist to be granted a license.

Conclusions

Criterion II is met provided some mechanism is incorporated to obtain competency from people being grandfathered in (include a time frame) and that in Section 5 of the proposed bill the words "or equivalent" be stricken.

CRITERION III

If the practice of the occupation or profession is performed, for the most part, under the direction of other health care personnel or inpatient facilities providing health care services, such arrangement is not adequate to protect the public from persons performing noncredentialed functions and procedures. (The Secretary recognizes this criterion as asking for documentation on why such arrangements are not adequate to protect the public.)

Information Provided

The applicant contends that "speech-language pathologists and audiologists are independent practitioners qualified to identify, assess, and provide nonmedical treatment for individuals with speech, language, and hearing disorders" (Application, page 31). Practitioners operate under their own supervision, even in inpatient facilities. An ASHA survey of providers illustrates that 53 percent work in a school environment; 15 percent, in hospitals; eight percent, rehabilitation units, four percent, private MD offices; and seven percent, in their own offices, etc. (Application, page 31).

Findings

From information provided, the practice of the occupations appear to be outside of inpatient facilities and not under the direction of other health care practitioners. Those practitioners in the school system are under the direction of the educational facility.

Conclusions

Criterion III is met because the clinical work is not necessarily subject to supervision by another health care person or in an inpatient facility.

CRITERION IV

The public is not effectively protected from harm by (private) certification of members of the occupation or by means other than (state) credentialing. (The KDHE Secretary recognizes this criterion as asking for documentation on why certification [nongovernmental or federal] or other means are not effective in protecting the public from harm.)

Information Provided

National (private) certification for speech-language pathologists and audiologists is through the American Speech-Language-Hearing Association (ASHA).

There are at least 1,009 speech-language pathologists and 65 audiologists in Kansas (Official Record, Minutes, 11-13-89 Meeting, page four). The applicant estimates there are another 223 persons practicing who have appropriate training but are not members or certified by ASHA. The applicant explained that private certification is not adequate since it is a voluntary process and, therefore, unenforceable (Application, page 32). ASHA has developed standards of practice for the occupations but no mechanism of enforcement (Application, page 33). In addition, ASHA certification lacks a requirement for continuing education.

Speech-language pathologists and audiologists in the public school systems must be certified as a teacher by the State Board of Education and must have a master's degree in respective field (Application, page 34). Previously, the school system hired bachelor's level practitioners. The applicant did not state what the date was when the requirement for a teaching certificate for persons providing speech-language pathology and for persons providing audiology services changed from a bachelor's degree to a master's degree. The applicant was unable to provide any information on the number of certified teachers who also provide private practice services. To fit and dispense hearing aids, one must be licensed by the Kansas Board of Hearing Aid Examiners. Seventy out of 237 persons licensed by this board are audiologists. No federal certification requirements exist. To receive Medicare or Medicaid reimbursement for services, the speech-language pathologists or audiologists must be ASHA certified.

The Food and Drug Administration requires a medical evaluation before the sale of a hearing aid. Patients under the age of 18 must have an audiology evaluation prior to the purchase of a hearing aide (Application, page 34). The applicant contends that this regulation is too narrow to protect the public from the unrestricted use of devices and substances of the occupations (Application, page 34).

Findings

From the information provided, it appears private certification and other means besides state credentialing are in place and do provide the public some protection. However, the public is not effectively protected from the potential for harm from bachelor's level practitioners in the school systems, unqualified practitioners in private practice, and from other health care personnel providing services beyond training.

Conclusions

Criterion IV is met.

CRITERION V

The effect of credentialing of the occupation on the cost of health care to the public is minimal. (The KDHE Secretary stipulates that the applicant, in determining if the cost of health care to the public is minimal, shall consider fees-for-services, salaries and wages, and payments to members and services covered by the public and private insurance programs.)

Information Provided

According to the applicant, fees for services vary according to employment setting. Speech-language pathology services are generally based on an hourly rate ranging from \$50 to \$125 per hour (Application, page 35). Audiology fees are usually based on the procedure completed. A hearing test range from \$18 to \$300. The applicant maintains that fees would not be impacted due to licensure since fees are determined by individual cost-accounting procedures (Application, page 35). Speech-language pathologists and audiologists currently receive third-party reimbursement. A consumer must be referred by a physician for insurance reimbursement. Therefore, a state credentialing requirement will probably not impact current status (Application, page 34).

According to the applicant, the cost to the state of a licensure requirement would be the administrative cost of the board and fees can be set to cover these costs (Application, pages 36 and 37).

Findings

From the information provided, the two occupations already receive third-party reimbursement and part of the cost of state regulation would be borne by the occupations through the licensure fees. Therefore, the cost of credentialing would be minimal.

Conclusions

Criterion V is met.

CRITERION VI

The effect of credentialing of the occupation on the availability of health care personnel providing services provided by such occupation is minimal.

Information Provided

The applicant concludes that the effects of credentialing on the mobility of current speech-language pathologists and audiologists will be minimal since most of the 38 states that license the occupations have reciprocal agreements to license professionals moving into the state (Application, page 37).

The applicant proposes that individuals who are currently employed in the occupations at the time the licensure law goes into effect will be grandfathered into the licensing process (Application, page 37, and Official Record, Exhibit 6b).

The applicant stated, "There are 190 persons who only have a bachelor's degree employed as speech-language pathologists or audiologists in the Kansas public school systems" (Official Record, Exhibit 11). The applicant stated that there is a 50-50 split of members in urban/rural settings (Official Record, Minutes 3-9-90.) The applicant notes that Kansas ranks better than the national ratio of certified speech-language pathologists and audiologists per 100,000

population. The ration nationally is 20.9/100,000 population where Kansas is at 26.5 speech-language pathologists and audiologists per 100,000 population (Official Record, Exhibits 5 and 11). No optimal ratio was available to determine if the ratio is adequate or not.

According to the applicant, some rural areas have difficulty in recruiting qualified health care professionals in a variety of fields. However, the impact on the availability of practitioners in rural areas should be minimal due to the grandfather process (Official Record, Minutes, 11-13-89 Meeting, page 12). The Kansas Hospital Association noted that licensure of speech-language pathologists and audiologists would have little, if any, impact on hospitals' ability to deliver these services. However, some rural hospitals have problems with recruitment of a variety of health care practitioners (Official Record, Exhibit 16). A letter from a rural Kansas hospital administrator expressed the existing problem with obtaining a certified speech-language pathologist or audiologist as required by Medicare (Official Record, Exhibit 16).

Findings

From the information provided, the effect of licensure of speech-language pathologists and audiologists would appear to be minimal on the availability of speech-language pathologists and audiologists providing services in the state. One technical committee member asked that his concerns be noted about the possible effects of licensure on the already existing problem in rural areas of attracting health care professionals.

Conclusions

Criterion VI is met.

CRITERION VII

The scope of practice of the occupation is identifiable.

Information Provided

The scope of practice of speech-language pathologists, as defined in the model bill proposal, is:

. . . rendering or offering to render to individuals or groups of individuals who have or are suspected of having disorders of communication any service in speech-language pathology including:
(1) prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction, and research;
(2) determining the need for personal augmentative communication systems, recommending such systems, and providing training in utilization of such systems; and (3) planning, directing, conducting, or supervising such services (Official Record, Exhibit 6b).

The scope of practice for audiologists is defined in the revised bill proposal as:

. . . rendering or offering to render to individuals or groups of individuals who have or are suspected of having disorders of hearing any services in audiology including: (1) prevention, identification, evaluation, consultation, habilitation or rehabilitation (other than hearing aid or other assistive listening device dispensing), instruction, and research; (2) participating in hearing conservation; (3) providing auditory training and speech reading; (4) conducting tests of vestibular functions; (5) evaluating tinnitus; and (6) planning, directing, conducting, or supervising services (Official Record, Exhibit 6b).

Examples of the scope of practices used in other state licensure laws for the two professions were included in the application (Application, Appendix N). The applicant notes that the national private certification association (ASHA) of the occupations recognizes these definitions as the scope of practices of speech-language pathologists and audiologists (Application, page 38).

Findings

From the information provided, there appears to be an identifiable scope of practice for the two occupations.

Conclusions

Criterion VII is met.

CRITERION VIII

The effect of credentialing of the occupation on the scope of practice of other health care personnel, whether or not credentialed under state law, is minimal.

Information Provided

According to the applicant, physicians, physician assistants, nurses, hearing aid dealers, occupational therapists, and respiratory therapists may perform the same or similar functions as speech-language pathologists and audiologists but at different levels of skills and training (Application, pages 39 and 40). Other personnel, such as paraprofessionals, may perform functions under the direction of a speech-language pathologist or audiologist (Official Record, Minutes, 11-13-89 Meeting, page 13). The applicant maintains that credentialing of the two occupations would not impact the scope of practice of the licensed practitioners since they have established scopes of practice (Application, page 41). The Kansas Hearing Aid Association, Inc., and the Kansas Board of Hearing Aid Examiners support the revised proposal since audiologists will not be pursuing separate licensure to fit or dispense hearing aids or assistive listening devices (Official Record, Exhibits 9 and 12). The present licensing law requires individuals who fit and/or dispense hearing aids to be licensed by the Board of Hearing Aid Examiners (Official Record, Exhibits 9 and 12). Therefore, audiologists performing these functions would have to be licensed by the Board of Hearing Aid Examiners.

According to the applicant, paraprofessionals would still be able to perform functions under the supervision of speech-language pathologists and audiologists or licensed health care professionals.

Findings

From the information provided, the effects of licensure of speech-language pathologists and audiologists on the scope of practice of other licensed/registered or unregulated health care personnel appears to be minimal.

Conclusions

Criterion VIII is met.

CRITERION IX

Nationally recognized standards of education or training exist for the practice of the occupation and are identifiable.

Information Provided

The American Speech-Language-Hearing Association (ASHA) has established educational and training standards for speech-language pathology and audiology. These standards involve: (1) graduation from a master's or doctoral degree in the respective field (speech-language pathology or audiology), (2) completion of 375 clock hours of supervised clinical observation and practicum in the respective field of study, and (3) completion of a 36-week clinical fellowship (full-time professional experience) in the respective field of study. (For more information, see Criterion II, pages five and six of this report.) In Kansas, four universities offer ASHA-accredited speech-language pathology programs (Application, pages 27 and 28). There are two universities in Kansas that offer ASHA-accredited audiology programs (Application, pages 27 and 28).

Findings

The American Speech-Language-Hearing Association (ASHA) has established educational and training standards that are identifiable. ASHA accredits educational programs.

Conclusions

Criterion IX is met.

CRITERION X - LEVEL OF CREDENTIALING

The statutes state that all recommendations of the technical committee relating to the level or levels of credentialing of speech-language pathologists and audiologists must be consistent with the policy that the least regulatory means of assuring the protection of the public is preferred. The options afforded by statutes beginning with the least regulatory and ending with the most regulatory are: (1) statutory regulation such as the creation or extension of civil action, criminal prohibitions, or injunctive remedies; (2) registration; and (3) licensure.

The remainder of this report is an analysis of the three credentialing options (statutory regulation, registration, and licensure) and recommendations concerning the most appropriate level or levels of credentialing to help protect the public from the cause of the documented harm.

Option 1 - Statutory Regulation

The statutes state that statutory regulation, other than registration or licensure, by the creation or extension of statutory causes of civil action, criminal prohibitions, or injunctive remedies is the appropriate level of credentialing when this level will adequately protect the public.

Information Provided

No information was provided. It does not appear that other regulatory actions have been pursued or are being considered by other states in the form of criminal or civil law or injunctive remedies to address the issue of harm.

Option 2 - Registration

The statutes state that registration is the appropriate level when statutory regulation is not adequate to protect the public and when registration will adequately protect the public by identifying practitioners who possess certain minimum occupational skills so that members of the public may have a substantial basis for relying on the services of such practitioners.

Information Provided

No state currently registers members of these two occupations. The State of Minnesota is pursuing a registration bill for speech-language pathologists and audiologists. Registration restricts the use of titles and requires those choosing to become registered to meet specific educational requirements and pass an examination. Registration does not prevent anyone from practicing the occupation as long as he/she does not refer to himself/herself as a speech-language pathologist or audiologist. Only a licensure law would restrict a scope of practice to those who demonstrate competency. It was noted in Criterion I there were several examples of unqualified persons using the title audiologist.

The applicant maintains that registration would allow consumers to identify qualified practitioners. However, registration would not address those practitioners who choose not to be registered and the unethical practitioner (Application, page 43).

Option 3 - Licensure

The statutes state that licensure is the appropriate level when statutory regulation and registration is not adequate to protect the public and when the speech-language pathologists and audiologists to be licensed perform functions not ordinarily performed by persons in other occupations or professions.

Information Provided

Thirty-six states license speech-language pathologists and audiologists. A licensure law would restrict the scope of practice to individuals who demonstrate competency (meet qualifications) and are licensed by the state. Licensure also protects the title of the occupation.

The applicant maintains that licensure would adequately protect the public by regulating the factors that cause harm: unethical and unqualified practice (Application, page 44). The applicant contends that harm to the client is due to unqualified persons providing services and qualified persons who have acted incompetently or unethically (Application, page 2, and Official Record, Exhibit 3). According to the applicant, a licensing law would rectify these situations by setting the qualifications for practitioners of the two professions and by identifying to the public and to other health care providers appropriate practitioners. In addition, a licensure law would set ethical standards of qualified practitioners and enforce such standards (Application, pages 12 and 42).

The applicant states that:

Communication requires a combination of three general aspects of human functioning: physiological, psychological, and social. Persons in other occupations, therefore, have knowledge of some aspects of human communication, but not necessarily others. Physicians, for example, primarily deal with the anatomical and physiological aspects of communication. Psychologists primarily deal with the psychological aspects. Speech-language pathologists and audiologist, however, are educated in all aspects of human communication and its disorders. Ordinarily, therefore, speech-language pathologists and audiologists are the professionals best educated for the nonmedical diagnosis and treatment of communication disorders (Application, page 44).

RECOMMENDATIONS RELATED TO THE LEVEL OR LEVELS
OF CREDENTIALING TO PROTECT THE PUBLIC

The technical committee finds the criteria to be met and that there is a significant need shown for credentialing speech-language pathologists and audiologists. The technical committee concludes that the scope of practice of speech-language pathologists and audiologists should be restricted to qualified personnel. Therefore, the technical committee recommends that licensure for speech-language pathologists and audiologists is the appropriate level of credentialing to protect the public from the documented harm.

HOUSE BILL No. 2168

By Committee on Public Health and Welfare

2-6

9 AN ACT concerning the state board of healing arts; relating to
10 grounds and proceedings for discipline and for denial of licenses;
11 concerning temporary registrations; amending K.S.A. 65-2842
12 and ~~65-2851a~~ and K.S.A. 1990 Supp. 65-2809, 65-2836 and, 65-
13 2837, 65-5408 and 65-5508 and repealing the existing sections;
14 also repealing K.S.A. 65-2805.
15

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

17 Section 1. K.S.A. 1990 Supp. 65-2809 is hereby amended to read
18 as follows: 65-2809. (a) The license shall expire on June 30 each year
19 and may be renewed annually upon request of the licensee. The
20 request for renewal shall be on a form provided by the board and
21 shall be accompanied by the prescribed fee, which shall be paid not
22 later than the expiration date of the license.

23 (b) Except as otherwise provided in this section, the board shall
24 require every licensee in the active practice of the healing arts within
25 the state to submit evidence of satisfactory completion of a program
26 of continuing education required by the board. The requirements
27 for continuing education for licensees of each branch of the healing
28 arts shall be established by the members of such branch on the
29 board. The board shall adopt rules and regulations prescribing the
30 requirements established by the members of each branch of the
31 healing arts for each program of continuing education as soon as
32 possible after the effective date of this act. In establishing such
33 requirements the members of the branch of the healing arts estab-
34 lishing them shall consider any programs of continuing education
35 currently being offered to such licensees. If, immediately prior to
36 the effective date of this act, any branch of the healing arts is
37 requiring continuing education or annual postgraduate education as
38 a condition to renewal of a license of a licensee of such branch of
39 the healing arts, such requirement as a condition for the renewal of
40 such license shall continue in full force and effect notwithstanding
41 any other provision of this section to the contrary.

42 (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,

1 to submit to the board evidence satisfactory to the board that the
2 licensee is maintaining a policy of professional liability insurance as
3 required by K.S.A. 40-3402 and amendments thereto and has paid
4 the annual premium surcharge as required by K.S.A. 40-3404 and
5 amendments thereto.

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

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

23 (f) There is hereby created a designation of exempt license. The
24 board is authorized to issue an exempt license to any licensee who
25 makes written application for such license on a form provided by
26 the board and remits the fee for an exempt license established pur-
27 suant to K.S.A. 65-2852 and amendments thereto. The board may
28 issue an exempt license only to a person who has previously been
29 issued a license to practice the healing arts in Kansas, who is no
30 longer regularly engaged in such practice and who does not hold
31 oneself out to the public as being professionally engaged in such
32 practice. An exempt license shall entitle the holder thereof to all
33 privileges attendant to the branch of the healing arts for which such
34 license is issued. Each exempt license may be renewed annually
35 subject to the provisions of this section. Each exempt licensee shall
36 be subject to all provisions of the healing arts act, except as otherwise
37 provided in this subsection (f). The holder of an exempt license shall
38 not be required to submit evidence of satisfactory completion of a
39 program of continuing education required by K.S.A. 65-2809 and
40 amendments thereto. Each exempt licensee may apply for a license
41 to regularly engage in the practice of the appropriate branch of the
2 healing arts upon filing a written application with the board and
43 submitting evidence of satisfactory completion of applicable contin-

1 uing education requirements established by the board. The request
2 shall be on a form provided by the board and shall be accompanied
3 by the license fee established pursuant to K.S.A. 65-2852 and amend-
4 ments thereto. The board shall adopt rules and regulations estab-
5 lishing appropriate continuing education requirements for exempt
6 licensees to become licensed to regularly practice the healing arts
7 within Kansas. Nothing in this subsection (f) shall be construed to
8 prohibit a person holding an exempt license from serving as a
9 coroner.

10 Sec. 2. K.S.A. 1990 Supp. 65-2836 is hereby amended to read
11 as follows: 65-2836. A licensee's license may be revoked, suspended
12 or limited, or the licensee may be publicly or privately censured,
13 *or an application for a license or for reinstatement of a license may*
14 *be denied* upon a finding of the existence of any of the following
15 grounds:

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

18 (b) The licensee has committed an act of unprofessional or dis-
19 honorable conduct or professional incompetency.

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

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

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

25 (f) The licensee has willfully or repeatedly violated this act, the
26 pharmacy act of the state of Kansas or the uniform controlled sub-
27 stances act, or any rules and regulations adopted pursuant thereto,
28 or any rules and regulations of the secretary of health and environ-
29 ment which are relevant to the practice of the healing arts.

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

33 (h) ~~The licensee has failed to pay annual renewal fees spec-~~
34 ~~ified in this act.~~

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

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

43 (k) (i) The licensee has the inability to practice the branch of

1 the healing arts for which the licensee is licensed with reasonable
 2 skill and safety to patients by reason of illness, alcoholism, excessive
 3 use of drugs, controlled substances, chemical or any other type of
 4 material or as a result of any mental or physical condition. In de-
 5 termining whether or not such inability exists, the board, upon
 6 reasonable suspicion of such inability, shall have authority to compel
 7 a licensee to submit to mental or physical examination or drug screen,
 8 or any combination thereof, by such persons as the board may
 9 designate. To determine whether reasonable suspicion of such ina-
 10 bility exists, the investigative information shall be presented to a
 11 review committee established pursuant to K.S.A. 65-2840e and
 12 amendments thereto ~~the board as a whole or to a person or an~~
 13 ~~entity approved by the board~~ and the determination shall be made
 14 by a majority vote of the review committee ~~board as a whole or~~
 15 ~~the person or entity approved by the board~~. Information sub-
 16 mitted to the review committee and its ~~board as a whole or the~~
 17 ~~person or an entity approved by the board~~ and all reports, findings
 18 and other records shall be confidential and not subject to discovery
 19 by or release to any person or entity. The licensee shall submit to
 20 the board a release of information authorizing the board to obtain
 21 a report of such examination or drug screen, or both. A person
 22 affected by this subsection shall be offered, at reasonable intervals,
 23 an opportunity to demonstrate that such person can resume the
 24 competent practice of the healing arts with reasonable skill and safety
 25 to patients. For the purpose of this subsection, every person licensed
 26 to practice the healing arts and who shall accept the privilege to
 27 practice the healing arts in this state by so practicing or by the
 28 making and filing of an annual renewal to practice the healing arts
 29 in this state shall be deemed to have consented to submit to a mental
 30 or physical examination or a drug screen, or any combination
 31 thereof, when directed in writing by the board and further to have
 32 waived all objections to the admissibility of the testimony, drug
 33 screen or examination report of the person conducting such exam-
 34 ination or drug screen, or both, at any proceeding or hearing before
 35 the board on the ground that such testimony or examination or drug
 36 screen report constitutes a privileged communication. In any pro-
 37 ceeding by the board pursuant to the provisions of this subsection,
 38 the record of such board proceedings involving the mental and phys-
 39 ical examination or drug screen, or any combination thereof, shall
 40 not be used in any other administrative or judicial proceeding.

[, to a review committee of professional peers of the li-
 censee established pursuant to K.S.A. 65-2840c and amend-
 ments thereto,

[a committee consisting of the officers of the board
 elected pursuant to K.S.A. 1990 Supp. 65-2818 and amend-
 ments thereto and the executive director appointed pur-
 suant to K.S.A. 1990 Supp. 65-2878 and amendments there-
 to. The

[entity which reviewed the investigative information

[a review committee of peers or a committee of the offi-
 cers and executive director of the board

41 (H) (i) 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

1 the proper licensing authority of another state, territory, District of
2 Columbia, or other country, a certified copy of the record of the
3 action of the other jurisdiction being conclusive evidence thereof.

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

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

10 ~~(o)~~ (m) The licensee, if licensed to practice medicine and surgery,
11 has failed to inform a patient suffering from any form of abnormality
12 of the breast tissue for which surgery is a recommended form of
13 treatment, of alternative methods of treatment specified in the stand-
14 ardized summary supplied by the board. The standardized summary
15 shall be given to each patient specified herein as soon as practicable
16 and medically indicated following diagnosis, and this shall constitute
17 compliance with the requirements of this subsection. The board shall
18 develop and distribute to persons licensed to practice medicine and
19 surgery a standardized summary of the alternative methods of treat-
20 ment known to the board at the time of distribution of the stand-
21 ardized summary, including surgical, radiological or
22 chemotherapeutic treatments or combinations of treatments and the
23 risks associated with each of these methods. Nothing in this sub-
24 section shall be construed or operate to empower or authorize the
25 board to restrict in any manner the right of a person licensed to
26 practice medicine and surgery to recommend a method of treatment
27 or to restrict in any manner a patient's right to select a method of
28 treatment. The standardized summary shall not be construed as a
29 recommendation by the board of any method of treatment. The
30 preceding sentence or words having the same meaning shall be
31 printed as a part of the standardized summary. The provisions of
32 this subsection shall not be effective until the standardized written
33 summary provided for in this subsection is developed and printed
34 and made available by the board to persons licensed by the board
35 to practice medicine and surgery.

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

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

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

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- 1 ~~(s)~~ (q) The licensee has violated a federal law or regulation re-
2 relating to controlled substances.
- 3 ~~(t)~~ (r) The licensee has failed to furnish the board, or its inves-
4 tigators or representatives, any information legally requested by the
5 board.
- 6 ~~(u)~~ (s) Sanctions or disciplinary actions have been taken against
7 the licensee by a peer review committee, health care facility, a
8 governmental agency or department or a professional association or
9 society for acts or conduct similar to acts or conduct which would
10 constitute grounds for disciplinary action under this section.
- 11 ~~(v)~~ (t) The licensee has failed to report to the board any adverse
12 action taken against the licensee by another state or licensing juris-
13 diction, a peer review body, a health care facility, a professional
14 association or society, a governmental agency, by a law enforcement
15 agency or a court for acts or conduct similar to acts or conduct which
16 would constitute grounds for disciplinary action under this section.
- 17 ~~(w)~~ (u) The licensee has surrendered a license or authorization
18 to practice the healing arts in another state or jurisdiction, has sur-
19 rendered the authority to utilize controlled substances issued by any
20 state or federal agency, has agreed to a limitation to or restriction
21 of privileges at any medical care facility or has surrendered the
22 licensee's membership on any professional staff or in any professional
23 association or society while under investigation for acts or conduct
24 similar to acts or conduct which would constitute grounds for dis-
25 ciplinary action under this section.
- 26 ~~(x)~~ (v) The licensee has failed to report to the board surrender
27 of the licensee's license or authorization to practice the healing arts
28 in another state or jurisdiction or surrender of the licensee's mem-
29 bership on any professional staff or in any professional association or
30 society while under investigation for acts or conduct similar to acts
31 or conduct which would constitute grounds for disciplinary action
32 under this section.
- 33 ~~(y)~~ (w) The licensee has an adverse judgment, award or settle-
34 ment against the licensee resulting from a medical liability claim
35 related to acts or conduct similar to acts or conduct which would
36 constitute grounds for disciplinary action under this section.
- 37 ~~(z)~~ (x) The licensee has failed to report to the board any adverse
38 judgment, settlement or award against the licensee resulting from a
39 medical malpractice liability claim related to acts or conduct similar
40 to acts or conduct which would constitute grounds for disciplinary
action under this section.
- 41 ~~(aa)~~ (y) The licensee has failed to maintain a policy of professional
42 liability insurance as required by K.S.A. 40-3402 or 40-3403a and
43

amendments thereto.

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

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

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

12 Sec. 3. K.S.A. 1990 Supp. 65-2837 is hereby amended to read
13 as follows: 65-2837. As used in K.S.A. 65-2836 and amendments
14 thereto and in this section:

15 (a) "Professional incompetency" means:

16 (1) One or more instances involving failure to adhere to the
17 applicable standard of care to a degree which constitutes gross neg-
18 ligence, as determined by the board.

19 (2) Repeated instances involving failure to adhere to the appli-
20 cable standard of care to a degree which constitutes ordinary neg-
21 ligence, as determined by the board.

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

24 (b) "Unprofessional conduct" means:

25 (1) Solicitation of professional patronage through the use of fraud-
26 ulent or false advertisements, or profiting by the acts of those rep-
27 resenting themselves to be agents of the licensee.

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

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

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

37 (5) Performing, procuring or aiding and abetting in the perform-
38 ance or procurement of a criminal abortion.

39 (6) Willful betrayal of confidential information.

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

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

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

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

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

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

14 (13) Making a false or misleading statement regarding the licen-
15 see's skill or the efficacy or value of the drug, treatment or remedy
16 prescribed by the licensee or at the licensee's direction in the treat-
17 ment of any disease or other condition of the body or mind.

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

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

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

24 (17) The use of any false, fraudulent or deceptive statement in
25 any document connected with the practice of the healing arts in-
26 cluding the ~~inaccurate recording~~, intentional falsifying or fraud-
27 ulent altering of a patient or medical care facility record.

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

29 (19) Directly or indirectly giving or receiving any fee, commis-
30 sion, rebate or other compensation for professional services not ac-
31 tually and personally rendered, other than through the legal
32 functioning of lawful professional partnerships, corporations or
33 associations.

34 (20) Failure to transfer ~~medical~~ patient records to another phy-
35 sician licensee when requested to do so by the subject patient or
36 by such patient's legally designated representative.

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

39 (22) Charging an excessive fee for services rendered.

40 (23) Prescribing, dispensing, administering, distributing a pre-
41 scription drug or substance, including a controlled substance, in an
42 excessive, improper or inappropriate manner or quantity or not in
43 the course of the licensee's professional practice.

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

5 (25) Failure to keep written medical records which *accurately*
6 describe the services rendered to the patient, including patient his-
7 tories, pertinent findings, examination results and test results.

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

11 (27) Using experimental forms of therapy without proper in-
12 formed patient consent, without conforming to generally accepted
13 criteria or standard protocols, without keeping detailed legible rec-
14 ords or without having periodic analysis of the study and results
15 reviewed by a committee or peers.

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

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

29 (d) "Advertisement" means all representations disseminated in
30 any manner or by any means, for the purpose of inducing, or which
31 are likely to induce, directly or indirectly, the purchase of profes-
32 sional services.

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

37 (f) "License" for purposes of this section and K.S.A. 65-2836 and
38 amendments thereto shall mean any license, permit, special permit
39 or approval authorized by article 28 of chapter 65 of the Kansas
40 Statutes Annotated. *permitted under*

or

*Law which
Change*

Sec. 4. K.S.A. 65-2842 is hereby amended to read as follows:
65-2842. Whenever the board directs, pursuant to subsection (4) (i)
of K.S.A. 65-2836 and amendments thereto, that a licensee submit

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1 to a mental or physical examination *or drug screen*, or any com-
 2 bination thereof, the time from the date of the board's directive
 3 until the submission to the board of the report of the examination
 4 *or drug screen*, or both, shall not be included in the computation
 5 of the time limit for hearing prescribed by the Kansas administrative
 6 procedure act.

7 ~~Sec. 5. K.S.A. 65-2851a is hereby amended to read as fol-~~
 8 ~~lows: 65-2851a. (a) All administrative proceedings provided for~~
 9 ~~by article 28 of chapter 65 of the Kansas Statutes Annotated~~
 10 ~~and affecting any licensee licensed under that article shall be~~
 11 ~~conducted in accordance with the provisions of the Kansas~~
 12 ~~administrative procedure act.~~

13 (b) ~~Judicial review and civil enforcement of any agency ac-~~
 14 ~~tion under article 28 of chapter 65 of the Kansas Statutes An-~~
 15 ~~notated shall be in accordance with the act for judicial review~~
 16 ~~and civil enforcement of agency actions.~~

17 Sec. 5. K.S.A. 1990 Supp. 65-5408 is hereby amended to read
 18 as follows: 65-5408. (a) The board shall waive the examination,
 19 education and experience requirements and grant registration to
 20 any person who applies for registration on or before July 1, 1987,
 21 who pays the application fee and who was certified prior to the
 22 effective date of this act as an occupational therapist registered
 23 (O.T.R.) or a certified occupational therapy assistant (C.O.T.A.) by
 24 the American occupational therapy association (A.O.T.A.) or who
 25 has been employed as an occupational therapist for the purpose of
 26 providing occupational therapy for at least two years within the
 27 three-year period immediately prior to the effective date of this
 28 act.

29 (b) The board may waive the examination, education or expe-
 30 rience requirements and grant registration to any applicant who
 31 shall present proof of current licensure or registration as an oc-
 32 cupational therapist or occupational therapy assistant in another
 33 state, the District of Columbia or territory of the United States
 34 which requires standards for licensure or registration determined
 35 by the board to be equivalent to or exceed the requirements for
 36 registration under this act.

37 (c) At the time of making an application under this section, the
 38 applicant shall pay to the board the application fee as required
 39 under K.S.A. 1986 1990 Supp. 65-5409 and amendments thereto.

40 (d) The board may issue a temporary registration to an applicant
 41 for registration as an occupational therapist or as an occupational
 therapy assistant who applies for temporary registration on a form
 provided by the board, who meets the requirements for registration

or who meets all the requirements for registration

out

over

1 ~~except for~~ examination and who pays to the board the temporary
 2 registration fee as required under K.S.A. 1986 1990 Supp. 65-5409
 3 and amendments thereto. Such temporary registration shall expire
 4 on the date the board acts on the application for registration
 5 shall ~~be in effect until the date the results of the examination become~~
 6 ~~available, but no~~ more than one such temporary registration shall
 7 be permitted to any one person without the majority approval of
 8 the members of the board.

expire one year from the date of issue or on the date that
 the board approves the application for registration, which-
 ever occurs first. No

9 Sec. 6. K.S.A. 1990 Supp. 65-5508 is hereby amended to read
 10 as follows: 65-5508. (a) The board shall waive the examination,
 11 education and experience requirements and grant registration to
 12 any person who applies for registration on or before July 1, 1987,
 13 who pays the application fee and who was registered or certified
 14 immediately prior to the effective date of this act as a respiratory
 15 therapist or respiratory therapy technician by the national board
 16 for respiratory care or who has been employed as a respiratory
 17 therapist for the purpose of providing respiratory therapy for at
 18 least two years within the three-year period immediately prior to
 19 the effective date of this act.

20 (b) The board may waive the examination, education or expe-
 21 rience requirements and grant registration to any applicant who
 22 presents proof of current licensure or registration as a respiratory
 23 therapist in another state, the District of Columbia or territory of
 24 the United States which requires standards for licensure or reg-
 25 istration determined by the board to be equivalent to or exceed
 26 the requirements for registration under this act.

27 (c) At the time of making an application under this section, the
 28 applicant shall pay to the board the application fee as required
 29 under K.S.A. 1986 1990 Supp. 65-5509 and amendments thereto.

30 (d) The board may issue a special permit to a student enrolled
 31 in an approved school of respiratory therapy who applies for such
 32 special permit on a form provided by the board and who pays to
 33 the board the special permit fee as required under K.S.A. 1986
 34 1990 Supp. 65-5509 and amendments thereto. The special permit
 35 shall authorize a student who is enrolled in an approved school of
 36 respiratory therapy and who holds such special permit to practice
 37 respiratory therapy under the supervision of a registered respi-
 38 ratory therapist. Such special permit shall expire on the date that
 39 the student graduates from an approved school of respiratory ther-
 40 apy or otherwise ceases to be enrolled in an approved school of
 respiratory therapy.

(e) The board may issue a temporary registration to an applicant
 for registration as a respiratory therapist who applies for temporary

1 registration on a form provided by the board, who meets the re-
2 quirements for registration *or who meets all of the requirements*
3 *for registration except examination* and who pays to the board the
4 temporary registration fee as required under K.S.A. ~~1986~~ 1990
5 Supp. 65-5509 and amendments thereto. Such temporary registra-
6 tion shall expire ~~on the date that the board acts on the application~~
7 ~~for registration~~ *one year from the date of issue or on the date that*
8 *the board approves the application for registration, whichever occurs*
9 *first. No more than one such temporary registration shall be per-*
10 *mitted to any one person, without the majority approval of the*
11 *members of the board.*

12 Sec. 6 7. K.S.A. 65-2805, and 65-2842 and ~~65-2851a~~ and K.S.A.
13 1990 Supp. 65-2809, 65-2836 and, 65-2837, 65-5408 and 65-5508 are
14 hereby repealed.

15 Sec. 7 8. This act shall take effect and be in force from and after
16 its publication in the statute book.

Board of Healing Arts Recommends Repeal

K.S.A. 65-2830. This section repealed in 1989
(L. 1989, ch. 196, section 5).

K.S.A. 65-2853. Any applicant whose application is
rejected shall be allowed the return of his fee ex-
cept ten dollars (\$10) thereof, which shall be re-
tained by the board.

Amend repealer and title accordingly.

5-12

HOUSE BILL No. 2018

By Special Committee on Public Health and Welfare

Re Proposal No. 32

12-28

11 AN ACT concerning local health departments; eliminating the per
12 capita cap on state financial assistance; ~~excluding special project~~
13 ~~grants and fees when~~ determining state financial assistance;
14 amending K.S.A. 65-242, 65-243, 65-244, 65-245 and 65-246 and
15 repealing the existing sections.

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. K.S.A. 65-242 is hereby amended to read as follows:
19 65-242. (a) For the purpose of insuring that adequate public health
20 services are available to all inhabitants of the state of Kansas, the
21 state shall ~~participate, from and after January 1, 1983,~~ assist in
22 the financing of the operation of local health departments. Subject
23 to appropriations therefor each local health department which
24 applies for state financial assistance under this act shall receive
25 an amount of money equal to the amount of money which the
26 local health department receives from local tax revenues and
27 from federal revenue sharing funds, except that state financial
28 assistance to any one local health department shall not exceed
29 (1) an amount equal to \$.75 multiplied by the number equal
30 to the population of the county, if the local health department
31 is a county or city-county department of health, or counties, if
32 the local health department is a multicounty department of
33 health, in which the local health department is located or (2)
34 *be less than* an amount equal to \$7,000, if the local health
35 department is a county or city-county department of health, or
36 \$7,000 multiplied by a number equal to the number of counties
37 in which the local health department is located, if the local
38 health department is a multicounty department of health,
39 whichever amount computed under (a)(1) or (a)(2) is the larger
40 amount. *The amount of state financial assistance to the local*
41 *health department shall be based on the population of the*
county, if the local health department is a county or city-
county department of health, or counties, if the local health

1 *department is a multicounty department of health,* state fi-
2 nancial assistance shall be distributed to local health departments
3 as follows:

4 (a) First, each local health department shall, upon application
5 therefor, receive \$7,000. If sufficient funds are not available to
6 make this distribution, then the funds which are available shall be
7 divided equally among those local health departments making ap-
8 plication therefor.

9 (b) Second, if any funds are available after the distribution re-
10 quired in subsection (a), the secretary shall distribute such funds
11 as follows:

12 (1) A figure equal to the total amount of state financial assistance
13 available for distribution, before deduction for the distribution in
14 subsection (a), shall be determined.

15 (2) the figure determined in paragraph (1) of this subsection
16 shall be allocated to local health departments making application
17 for assistance based on the proportion that the population of the
18 county or counties comprising the local health department applying
19 for such assistance bears to the total population of all counties
20 comprising local health departments which have applied for such
21 financial assistance.

22 (3) if any local health department making application for as-
23 sistance would receive less than \$7,000 using the formula in par-
24 agraph (2) of this subsection, then such department shall be paid
25 in accordance with subsection (a) only. If any local health depart-
26 ment making application for assistance would receive more than
27 \$7,000 using the formula in paragraph (2) of this subsection, then
28 such department shall be paid based on the proportion that the
29 population served by the county or counties comprising such local
30 health department bears to the total population of all counties com-
31 prising local health departments which have made application for
32 assistance, except for departments receiving funds under subsection
33 (a), except that in no case shall the assistance distributed under
34 this subsection (b) to a local health department exceed the amount
35 that the local health department receives from local tax revenues
36 for the fiscal year in in which the state financial assistance is paid.

an amount equal to or

county

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37 (b) Notwithstanding any limitation placed by subsection (a)
38 on the amount of state financial assistance which any one local
39 health department may receive, if any money remains after the
40 first computation of state financial assistance under subsection
41 (a), such money shall be distributed to each local health de-
42 partment which will receive state financial assistance under
43 subsection (a) in proportion that the number equal to the pop-

(c) If local tax revenues allotted to a local health depart-
ment for a fiscal year fall below the level of local tax
revenues allotted to the local health department for the pre-
ceding fiscal year, the amount of state financial assistance
under this act for which such local health department is
eligible for the fiscal year shall be reduced by an amount
equal to the reduction in local tax revenue for that fiscal
year.

1 ulation of the county, if the local health department is a county
2 or city-county department of health, or counties, if the local
3 health department is a multicounty department of health, in
4 which the local health department is located bears to the total
5 population of all counties in which local health departments
6 which will receive state financial assistance under subsection
7 (a) are located.

8 (e) If the amount of money appropriated for state financial
9 assistance under subsection (a) of this section is not adequate
10 to provide each local health department which applies for state
11 financial assistance with the maximum amount of state financial
12 assistance the local health department is eligible to receive
13 under subsection (a), the secretary shall prorate the money
14 appropriated for such purpose among all local health depart-
15 ments applying for such financial assistance in proportion that
16 the amount of state financial assistance each such local health
17 department would have received if the amount of money ap-
18 propriated for state financial assistance under subsection (a)
19 had been adequate to provide each such local health depart-
20 ment with the maximum amount of state financial assistance
21 the local health department was eligible to receive under sub-
22 section (a) bears to the total amount of money which would
23 need to be appropriated under subsection (a) to provide all
24 such local health departments with the maximum amount of
25 state financial assistance the local health departments were
26 eligible to receive under subsection (a).

27 Sec. 2. K.S.A. 65-243 is hereby amended to read as follows: 65-
28 243. (a) The governing board of any local health department may
29 apply for the financial assistance provided under K.S.A. 65-242, by
30 submitting annually to the secretary the budget of the local health
31 department for the fiscal year immediately following the date
32 the budget is submitted showing the amount of money the local
33 health department will receive from local tax revenues and from
34 the federal revenue sharing fund *an application form provided*
35 *by the secretary* and such other information as the secretary may
36 require.

37 (b) The secretary shall use official state population figures based
38 upon population figures available from the United States bureau
39 of the census to determine the population of counties for computing
40 state financial assistance under K.S.A. 65-242 *and amendments*
41 *thereto.*

(c) The secretary may adopt rules and regulations necessary for
the administration of this act.

1 Sec. 3. K.S.A. 65-244 is hereby amended to read as follows: 65-
 2 244. (a) Prior to the beginning of each fiscal year and after review
 3 of the ~~annual budget application~~ submitted under K.S.A. 65-243
 4 ~~and amendments thereto~~, the secretary shall determine the amount
 5 of state financial assistance due to each local health department
 6 which has applied for such financial assistance. *Payments shall be*
 7 *computed and made based on the county fiscal year.*

8 (b) The state financial assistance due to each local health de-
 9 partment applying therefor shall be paid ~~in four quarterly in-~~
 10 ~~stallments as provided in this section.~~ The moneys received in any
 11 quarter may be used at any time during the year. ~~Installments~~
 12 *The state financial assistance due to each local health department*
 13 *shall be paid as follows: For calendar year 1991, on January 1 for*
 14 *the quarter beginning January 1 and ending March 31; April 1 for*
 15 *the quarter beginning April 1 and ending June 30; July 1 for the*
 16 *quarter beginning July 1 and ending September 30; and October*
 17 *1 for the quarter beginning October 1 and ending December 31;*
 18 *and for calendar year 1992 and for each calendar year thereafter,*
 19 *the total amount of state financial assistance due to each local health*
 20 *department during that fiscal year shall be paid on January 10.*

Note: A conferee indicated the fiscal impact of this change is \$1 million.

21 (c) The secretary shall certify to the director of accounts and
 22 reports the total amount of state financial assistance due ~~each~~
 23 ~~quarter~~ to each local health department which has applied for such
 24 financial assistance. The director of accounts and reports shall draw
 25 warrants on the state treasurer payable to the governing board of
 26 each such local health department upon vouchers executed as pro-
 27 vided by law and approved by the secretary.

28 Sec. 4. K.S.A. 65-245 is hereby amended to read as follows: 65-
 29 245. In the event any local health department is paid more than
 30 it is entitled to receive under any distribution made under this act,
 31 the secretary shall notify the governing board of the local health
 32 department of the amount of such overpayment, and such governing
 33 board shall remit the same to the secretary. The secretary shall
 34 remit any moneys so received to the state treasurer, and the state
 35 treasurer shall deposit the same in the state treasury *to the credit*
 36 *of the state general fund.* If any such governing board fails to remit,
 37 the secretary shall deduct the excess amount paid from future pay-
 38 ments becoming due to such local health department. In the event
 39 any local health department is paid less than the amount to which
 40 it is entitled under any distribution made under this act, the sec-
 41 retary shall pay the additional amount due at any time within the
 42 *fiscal year in which the underpayment was made or within 60 days*
 43 *after the end of such fiscal year.*

1 Sec. 2 5. K.S.A. 65-246 is hereby amended to read as follows:
 2 65-246. ~~[(a)]~~ Moneys available under this act for financial assistance
 3 to local health departments shall not be substituted for or used to
 4 reduce or eliminate moneys available to local health departments
 5 from the federal government or substituted for or used to reduce
 6 or eliminate moneys available from local tax revenues. Nothing in
 7 this act shall be construed to authorize a reduction or elimination
 8 of moneys available to local health departments from the federal
 9 government or to authorize the reduction or elimination of moneys
 10 made available by the state to local health departments in addition
 11 to moneys available under this act.

12 ~~(b) Moneys received by local health departments from fees~~
 13 ~~charged for services or one-time special project grants shall~~
 14 ~~not be included in the sum of money which the local health~~
 15 ~~department receives from local tax revenues when determining~~
 16 ~~the amount such department will receive from state financial~~
 17 ~~assistance pursuant to K.S.A. 65-242, and amendments thereto.~~

18 ~~[(b)]~~ Nothing in this section or in the provisions of K.S.A. 65-241
 19 through 65-246, and amendments thereto, shall be construed to
 20 require any county or local health department to maintain a base
 21 amount of tax resources or expenditures, or both, for a local health
 22 department from one fiscal year to the next or to require any county
 23 or local health department to maintain a level of local financial
 24 effort for the funding of local health departments except as provided
 25 in subsection (b) of K.S.A. 65-242 and amendments thereto.

26 Sec. 3 6. K.S.A. 65-242, 65-243, 65-244, 65-245 and 65-246 are
 27 hereby repealed.

28 Sec. 4 7. This act shall take effect and be in force from and after
 29 its publication in the statute book.

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