

Approved _____ Date 4-11-92

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

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

12:30 a/m/p.m. on March 31, 1992 in room 423-S of the Capitol.

All members were present except:

Rep. Bishop, excused

Committee staff present:

Emalene Correll, Research
Bill Wolff, Research
Norman Furse, Revisor
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Carl Schmitthenner, Kansas Dental Association
Larry Buening, Kansas Board of Healing Arts
Harold Riehm, Kansas Association of Osteopathic Medicine

Chair called meeting to order drawing attention to Committee minutes. Rep. Neufeld moved the minutes of March 17th and 18th be approved as presented, seconded by Rep. Amos. No discussion. Motion carried.

Chair drew attention to SB 343 and continued hearings. Chair requested staff give a briefing on the bill.

BRIEFING ON SB 343.

Mr. Furse gave a detailed explanation of SB 343, noting it relates to the grounds for disciplinary action against licensees of dental practice. He cited technical points; detailing the language in regard to misconduct; detailed grounds for disciplinary action.

HEARINGS BEGAN ON SB 343.

Carl Schmitthenner, Executive Director of Kansas Dental Association, provided hand-out (Attachment No. 1). He noted the Executive Council has reviewed SB 343 and recommends amending the bill by deleting paragraph 15, on pages 4, 5 lines 39-43 on page 14, and line 1 on page 5. This amendment has been discussed with and supported by the Kansas Dental Board. He explained rationale. He answered questions.

Mr. Phil Elwood, Attorney for Kansas Dental Board, stated he and Mr. Furse had talked earlier today in regard to questions raised yesterday in reference to current Kansas law in respect to accepting fees as indicated in the bill on page 4, section (9) line 11. He detailed the law on the division of fees or fee-splitting, noting that the new section on page 4 adequately deals with this concern and is probably preferable language. He suggested adding "giving or". He detailed rationale. He also suggested an amendment to SB 343, i.e., reinsert "informed consent"; they agree with the Kansas Dental Association on the deletion of section 15 on page 4; page 2, line 26, delete "systematic" as it relates to the nondisclosure of the waiver of patient co-payment. He answered questions. He stated the word "dispensing" drugs in an excessive, improper, inappropriate manner..... should be restored.

HEARINGS CLOSED ON SB 343.

Chair drew attention to bills previously heard, adopting a different procedure, directing attention to SB 343 while it is fresh in everyone's mind, and since this may be the last Committee meeting scheduled for the 1992 Session.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-S, Statehouse, at 12:30 a.m./p.m. on March 31, 1992

DISCUSSION BEGAN ON SB 343.

Rep. Amos moved to amend conceptually SB 343 on page 1, to change the date to 1991 on lines 11 and 14; page 2, on line 24 to delete "systematic"; on page 3, line 23 insert "informed" at the end of the line, in lines 24,25 reinstate "dispensing" and "or distributing", and delete lines 39-43; page 5, change the date to 1991 in line 2. Motion seconded by Rep. Wiard. Discussion continued. Vote taken. Motion carried.

Rep. Amos moved to report SB 343 favorably as amended, seconded by Rep. Hackler. No discussion. Vote taken. Motion carried.

Rep. Weiland agreed to carry SB 343 on the floor of the House.

HEARINGS BEGAN ON SB 709.

Chair requested an explanation of the bill from Staff.

Larry Buening, Executive Director, Kansas Board of Healing Arts, provided hand-out (Attachment No. 2). He stated the computer system currently used by the Board of Healing Arts can now more easily go to a year-round license renewal system which would result in the Board being able to establish a birthdate renewal for licenses. This system should balance the work flow, reducing temporary employees having to be hired during peak renewal periods as is necessary now. He detailed the schedule of renewal licensing for the groups of professionals under the authority of the Board. He drew attention to a balloon provided in his hand-out (see Attachment No. 2, proposed amendments). He detailed proposed language on pages 1,3, and 10. He detailed policy changes, noting the first year would be a short year and pro-rating would be necessary. The balloon provided language in SB 709 to include new sections, i.e., authorization to allow access/receive criminal record history information from criminal justice agencies; to share information with other state/federal licensing, regulatory and enforcement agencies. He indicated that original objections by the Kansas Trial Lawyers seem to be agreed upon now since there has been no further objection voiced. He had discussed proposed changes with their representative. Mr. Buening noted HB 2669 is legislation that would continue the existence of the Kansas Board of Healing Arts. He pointed out that in the Senate, an amendment had been placed on HB 2669 that would include much of SB 691. He stated since the fate of HB 2669 is unknown at this time, and since the existence of the Kansas Board of Healing Arts is of primary concern, he would recommend that Committee members might wish to consider amending into SB 709 the sunset provision for the Board that was in HB 2669. He answered numerous questions, i.e., the need for obtaining criminal records for the Board; effective date of SB 709. Mr. Buening indicated the plan was to have the Board develop rules/regulations on an emergency basis in order to keep the expiration dates of licenses identical to what they are now. It will be a plan whereby the Board can determine if the birthdate renewal for licensure is a good idea and can, in fact, be implemented.

Harold Riehm, Kansas Association Osteopathic Medicine provided written-only testimony, (see Attachment No. 3).

HEARINGS CLOSED ON SB 709.

Chair drew attention to SB 709 while discussion just held is still fresh in the minds of Committee.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 12:30 a/m/p.m. on March 31, 1992.

DISCUSSION BEGAN ON SB 709.

Rep. Wiard moved to amend SB 709 to include the sunset clause from HB 2669 that would extend the life of the Board of Healing Arts to the date of July 1, 2000. Rep. Hackler seconded the motion. No discussion. Vote taken. Motion carried.

Rep. Amos moved to amend SB 709, per balloon offered by Mr. Buening, seconded by Rep. Scott. No discussion. Vote taken. Motion carried.

Rep. Amos moved to report SB 709 favorably as amended, seconded by Rep. Cozine. No discussion. Vote taken. Motion carried.

Rep. Scott agreed to carry SB 709 on the floor of the House.

DISCUSSION BEGAN ON SB 603.

Ms. Correll gave background information on SB 603, and answered questions.

Rep. Praeger moved to amend SB 603 per balloon offered by the Dental Board, indicated on pages 1 and 2 of balloon in booklet provided at an earlier meeting. Motion seconded by Rep. Wagle. No discussion. Motion carried.

Discussion continued, i.e., some had concerns with persons coming into the state who are unlicensed in Kansas to provide hands-on teaching; the dentist must bring his/her own patient, and have patient agree to the procedures; concern of liability was discussed; concerns with the definition of "clinician".

Rep. Weiland moved to report SB 603 adversely, seconded by Rep. Lynch. No discussion. Vote taken. Motion carried.

DISCUSSION BEGAN ON HB 3172.

It was noted that recommendations to amend HB 3172 were detailed in a balloon provided at an earlier meeting by Mr. Wunsch and the Board of Healing Arts.

Mr. Furse explained the amendatory language, also pointing out in sub (b) alternative wording that may need to be inserted, i.e., (b) relevant provisions of K.S.A. 1991 Supp. 65-2809 were to be made applicable to a visiting clinical professor issued under this section.

Rep. Samuelson moved to amend HB 3172 per balloon offered by Mr. Wunsch, and to amend further conceptually, per suggestion of Mr. Furse in (b). Motion seconded by Rep. Praeger. No discussion. Vote taken. Motion Carried.

Questions were raised in regard to concerns of liability coverage. Mr. Wolff explained in detail: If Kansas were to require a health care provider serving at the Medical Center to contribute into the Health Care Stabilization Fund as well as pay the premium for the insurance that he/she has in the state where he/she is licensed to practice, since HB 3172 deletes this kind of person from the definition of health care provider in the Health Care Provider Insurance Availability Act, such provider would not have to pay the surcharge. On that basis, he said, it sounds like the major carriers say they will cover these persons regardless of their geographical location, or where they were providing their service.

Discussion continued.

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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S Statehouse, at 12:30 a.m./p.m. on March 31, 1992

Rep. Flottman drew attention to a technical matter in the bill, then moved to amend HB 3172 on page 4, lines 10-11 by deleting words, "Norton State Hospital", seconded by Rep. Neufeld. No discussion. Vote taken. Motion carried.

Rep. Samuelson moved to report HB 3172 favorably as amended, seconded by Rep. Praeger. No discussion. Vote taken. Motion carried.

Rep. Flottman agreed to carry HB 3172 on the floor of the House.

DISCUSSION BEGAN ON HB 3156.

Chair asked staff for background information on the bill. Mr. Furse gave a detailed explanation of HB 3156. It was indicated additional language or amendatory language had been requested on HB 3156, but he had heard nothing further.

Rep. Neufeld moved to amend HB 3156 to change the regulatory authority from the Secretary of Department of SRS to the Secretary of Department of Health/Environment throughout the bill where applicable. Motion seconded by Rep. White. Discussion ensued. Vote taken. Motion carried.

Rep. Wiard moved to report HB 3156 favorably as amended, seconded by Rep. Neufeld. No discussion. Vote taken. Motion carried.

Rep. Neufeld agreed to carry HB 3156 on the floor of the House.

Chair drew attention to HB 3014 and HB 3016. It was noted there had been a number of recommendations made during hearings on welfare provisions, i.e., interim study on welfare reform by either Public Health/Welfare, or Joint Committee; Committee to direct Department of SRS to educate the public on TransMed; request a Post Audit on KanWork program. At this time, Chair asked members which direction, if any, they wished to take on this subject. It was noted there is other legislation that was introduced but not heard because of time constraints, that might possibly be included in the study of welfare reform.

Rep. Neufeld moved to recommend a Post Audit on the KanWork program, seconded by Rep. Amos. A lengthy discussion ensued.

Numerous concerns were expressed by members, i.e., staff noted that clear direction on the intent of the legislature is important. Vote taken. Motion carried.

Rep. Praeger moved to request an interim study by Public Health/Welfare on welfare reform as it relates to KanWork, which would include several of the bills that had been introduced in this Committee this year, i.e., HB 3014 and HB 3016. Motion seconded by Rep. Grant. No discussion. Vote taken. Motion carried.

Chair asked for further directives. Any member of the Committee that wishes to suggest a specific matter that would fit into the motions made for interim study, please write them out, send to the Chair, and she then would communicate that to Staff as they would be directed to write the letter of request to the Legislative Coordinating Council.

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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
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Chair drew attention to HB 2256, introduced in 1991. She detailed background information i.e., suggested Health Care Maintenance Organization (HMO) at Kansas University Medical Center; suggestions made previously for a group to consider this in a health care reform study.

Rep. Neufeld moved that Public Health/Welfare Committee recommend that HB 2256 be directed to the 403 Commission for consideration, seconded by Rep. Grant. No discussion. Vote taken. Motion carried.

Note: Recorded this date as (Attachment No. 4) is a letter addressed to Senator Oleen from Charles J. Arcoria, D.D.S., Baylor College of Dentistry, referring to SB 603.

Chair thanked members for their hard work and cooperation and their attention in Committee this Session. Together they can now pursue these interests on the floor of the House as the bills come up for debate.

Chairperson Sader adjourned the meeting at 2:45 p.m.

No other Committee meetings are scheduled for the remainder of this Session. There may however be meetings on Call of the Chair.



Statement by Carl C. Schmitthenner, Jr.
March 30, 1992
SB 343

Chairman and members of the Committee, I am Carl Schmitthenner, Executive Director of the Kansas Dental Association.

The Kansas Dental Association supports the ability of the Kansas Dental Board to regulate the practice of dentistry and to define unprofessional conduct.

The Executive Council has reviewed the bill and recommends one amendment--that is, the deletion of paragraph 15 on pages 4 and 5, lines 39-43 on page 14, and line 1 on page 5.

This amendment has been discussed with and supported by the Dental Board.

The reason for our amendment is the concern for an appropriate definition of "experimental". Due to the extensive time taken for acceptance by the ADA Council on Therapeutics and Council on Materials, Instruments & Equipment, some beneficial forms of treatment may be denied our patients. Examples which were discussed were sealants and dental implants.

We would request that you accept our amendment and report the bill favorably as amended.

Thank you for your consideration.

5200 Huntoon
Topeka, Kansas 66604
913-272-7360

PHW
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Att #1

State of Kansas

235 S. TOPEKA BLVD.
TOPEKA, KS 66603



913-296-7413
FAX: 913-296-0852

Board of Healing Arts

M E M O R A N D U M

TO: House Committee on Public Health and Welfare
FROM: Lawrence T. Buening, Jr., Executive Director *LTB*
DATE: March 30, 1992
RE: TESTIMONY ON SENATE BILL 709

Madam Chairperson and members of the Committee, thank you for the opportunity to appear and provide testimony in support of Senate Bill 709. The introduction of this bill was requested by the State Board of Healing Arts.

Primarily, this bill was requested in order to delete the statutory reference to expiration dates for the annual renewals of licenses for podiatrists, licensees under the Healing Arts Act and registrations and certificates for physical therapists and physical therapist assistants. The present language of 65-2005 states that podiatry licenses expire on July 1 each year. K.S.A. 65-2809 provides that the licenses issued under the Healing Arts Act (M.D., D.O. and D.C.) expire on June 30 of each year. For physical therapists and physical therapist assistants, K.S.A. 65-2910 presently provides that these registrations or certificates lapse on January 31 of each year. Under the rules and regulations adopted by the Board pursuant to statutory authority for

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KENNETH D. WEDEL, M.D., MINNEAPOLIS
RON ZOELLER, D.C., TOPEKA

Done
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physicians' assistants, occupational therapists, occupational therapy assistants and respiratory therapists, the expiration date is December 31 of each year.

The Board presently regulates just under 12,000 individuals who are annually required to renew their licenses, registrations or certificates. The four licensed groups (M.D., D.O., D.C. and D.P.M.), pursuant to the present statutes, renew during May and June prior to the expiration date of either June 30 or July 1. This amounts to approximately 7,000 individuals who renew during this two-month period. The six registered or certified groups renew during December or January either pursuant to Board rules and regulations or present statutory language. Approximately 5,000 individuals renew during the months of December and January. This creates very high peak times during these two periods. Due to the computerization of the licensing records over the last two years, the Board has the capability of establishing year-round renewal system for all of the professions, which would most probably be implemented using the month of birth of each individual as the expiration date. This would result in the Board being able to establish the year-round renewal system and even out the work flow resulting in increased efficiency and reduction in temporary employees during the present peak renewal periods.

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In addition to allowing the expiration date for physical therapists and physical therapist assistants registration and certification to be established by rules and regulations of the Board, Section 3 does make two other policy changes. Section 3(b) would require the Board to establish continuing education requirements for physical therapist assistants as a condition of renewal. At present, physical therapist assistants are the only group regulated by the Board which does not have continuing education requirements. In addition, existing Section 3(c) would require physical therapists who actively practice physical therapy in the state of Kansas to submit proof that they are maintaining professional liability insurance in accordance with the Kansas Healthcare Stabilization Fund and have paid the annual premium surcharge specified by the Fund. Although physical therapists have, since the inception of the Fund in 1976, been required to maintain professional liability insurance and pay the premium surcharge, there has been no requirement by statute that proof of insurance be provided if the individual is actively practicing in the State. Section 3(c) would place upon physical therapists, at the time of renewal, an obligation to provide the same type of proof of insurance as that required of the three licensed groups under the Healing Arts Act and the podiatrists.

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Attached to this testimony is balloon language for various amendments. The language on pages 1, 3 and 10 of the bill has been included based upon comments made during the Senate Committee hearing to allow proration of fees in the year in which the Board implements a year-round renewal system.

In addition, the balloon language adds to new sections to the bill. Those amendments were included in SB 694 which died in Senate Committee due, in part, to that bill containing some provisions which were objectionable to the Kansas Trial Lawyers Association.

In new section 3, the Board is requesting authorization to be able to access and receive criminal record history information from criminal justice agencies. This would enable the Board to better investigate, gather data and carry out its mandated legislative purpose. This request is similar to authority given to other agencies, including the Kansas Racing Commission and the proposed language is modeled after the Racing Commission's statutory language (K.S.A. 1991 Supp. 74-8804[n]).

Proposed new section 4 amends K.S.A. 1991 Supp. 65-2898a to allow the Board to share information with other state and federal licensing, regulatory and enforcement agencies. Currently, the Kansas Social and Rehabilitation Services conducts investigations on Medicaid fraud and abuse; the Kansas Board of Nursing conducts investigations involving Advanced Registered Nurse

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Practitioners who are required to have a responsible physician; Health and Environment inspects and conducts investigations regarding hospitals; Health and Human Services conducts investigations regarding Medicare abuse and fraud; Postal Inspectors conduct investigations relative to mail fraud (both licensed practitioner and unauthorized practice, i.e., "bogus" cures and "quacks"); and the Kansas Attorney General's Office conducts consumer protection complaint investigations. The Board also receives anonymous complaints which do not relate to a Board practitioner and the current language of K.S.A. 65-2898a is not clear whether the Board can refer that information to the proper agency. The Board also conducts investigations outside of the state, primarily for applicant background investigations and depending on the location of the witnesses and the location of the alleged act. The proposed language change will assist not only the State Board of Healing Arts but also other state agencies through cooperative investigations, sharing of resources and elimination of duplicitous investigations, hopefully, resulting in an economic savings overall for the State.

I would be happy to respond to any questions regarding SB 709 as it was passed by the Senate or the proposed balloon amendments.

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SENATE BILL No. 709

By Committee on Public Health and Welfare

2-20

8 AN ACT concerning the healing arts; relating to the expiration date
9 of licenses and registrations issued; amending K.S.A. 65-2910 and
10 K.S.A. 1991 Supp. 65-2005 and 65-2809, and repealing the existing
11 sections.

, receipt of criminal history record
information and confidentiality of reports

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

65-2839a and 65-2898a

14 Section 1. K.S.A. 1991 Supp. 65-2005 is hereby amended to read
15 as follows: 65-2005. (a) A licensee shall be designated a licensed
16 podiatrist and shall not use any title or abbreviations thereof without
17 the designation licensed podiatrist, practice limited to the foot, and
18 shall not mislead the public as to such licensee's limited professional
19 qualifications to treat human ailments. Whenever a registered po-
20 diatrist, or words of like effect, is referred to or designated by any
21 statute, contract or other document, such reference or designation
22 shall be deemed to refer to or designate a licensed podiatrist.

23 (b) The license of each licensed podiatrist shall expire on July
24 ~~1 of each year~~ *the date established by rules and regulations of the*
25 ~~board and may be renewed annually upon the request of the li-~~
26 ~~censee.~~ The request for renewal shall be on a form provided by the
27 board and shall be accompanied by the renewal fee established pur-
28 ~~suant to~~ *under* K.S.A. 65-2012 and amendments thereto which shall
29 be paid not later than the expiration date of the license. At least
30 30 days before the expiration of a licensee's license, the board shall
31 notify the licensee of the expiration by mail addressed to the licen-
32 see's last mailing address as noted upon the office records. If a
33 licensee fails to pay the renewal fee by the date of expiration, the
34 licensee shall be given a second notice that the licensee's license
35 has expired and the license may be renewed only if the renewal fee
36 and the late renewal fee are received by the board within the thirty-
37 day period following the date of expiration and that, if both fees are
38 not received within the thirty-day period, such licensee's license
39 shall be considered to have lapsed ~~be canceled~~ for failure to renew
40 and shall be reissued only after the licensee has been reinstated
41 under subsection (c).

which may provide renewal throughout the
year on a continuing basis. In each case
in which a license is renewed for a period
of time of less than one year, the board
may prorate the amount of the fee
established under K.S.A. 1991 Supp.
65-2012 and amendments thereto.

42 (c) Any licensee who allows the licensee's license to lapse ~~be~~
43 ~~canceled~~ by failing to renew as ~~herein~~ provided may be reinstated

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1 upon recommendation of the board and upon payment of the renewal
 2 fee and the reinstatement fee established pursuant to K.S.A. 65-
 3 2012 and amendments thereto and upon submitting evidence of
 4 satisfactory completion of the applicable reeducation and continuing
 5 education requirements established by the board. The board shall
 6 adopt rules and regulations establishing appropriate reeducation and
 7 continuing education requirements for reinstatement of persons
 8 whose licenses have ~~lapsed~~ *been canceled* for failure to renew.

9 (d) The board, prior to renewal of a license, shall require the
 10 licensee, if in the active practice of podiatry within Kansas, to submit
 11 to the board evidence satisfactory to the board that the licensee is
 12 maintaining a policy of professional liability insurance as required
 13 by K.S.A. 40-3402 and amendments thereto and has paid the annual
 14 premium surcharge as required by K.S.A. 40-3404 and amendments
 15 thereto.

16 (e) The board may issue a temporary permit to practice podiatry
 17 in this state to any person making application for such temporary
 18 permit upon a form provided by the board who meets the require-
 19 ments prescribed by the board and who pays to the board the
 20 temporary permit fee established pursuant to K.S.A. 65-2012 and
 21 amendments thereto. A temporary permit shall authorize the per-
 22 mittee to practice within the limits of the permit until the license
 23 is issued or denied to the permittee by the board, except that where
 24 a graduate podiatrist is working under the supervision of a licensed
 25 podiatrist in a training program approved by the board, the tem-
 26 porary permit issued to such graduate podiatrist shall be valid for
 27 the period of such training program.

28 (f) The board may issue, upon payment to the board of the
 29 temporary license fee established pursuant to K.S.A. 65-2012 and
 30 amendments thereto, a temporary license to a practitioner of another
 31 state or country who is appearing as a clinician at meetings, seminars
 32 or training programs approved by the board, if the practitioner holds
 33 a current license, registration or certificate as a podiatrist from an-
 34 other state or country and the sole purpose of such appearance is
 35 for promoting professional education.

36 (g) There is hereby created a designation of exempt license. The
 37 board is authorized to issue an exempt license to any licensee who
 38 makes written application for such license on a form provided by
 39 the board and remits the fee for an exempt license established ~~pur-~~
 40 ~~suant to~~ *under* K.S.A. 65-2012 and amendments thereto. The board
 41 may issue an exempt license only to a person who has previously
 42 been issued a license to practice podiatry within Kansas ~~and~~, who
 43 is no longer regularly engaged in such practice and who does not

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1 hold oneself out to the public as being professionally engaged in
 2 such practice. An exempt license shall entitle the holder thereof to
 3 all privileges attendant to the practice of podiatry. Each exempt
 4 license may be renewed annually subject to the other provisions of
 5 this section and other sections of the podiatry act. Each exempt
 6 licensee shall be subject to all provisions of the podiatry act, except
 7 as otherwise provided therein. The holder of an exempt license shall
 8 not be required to submit evidence of satisfactory completion of a
 9 program of continuing education required under the podiatry act.
 10 Each exempt licensee may apply for a license to regularly engage
 11 in the practice of podiatry upon filing a written application with the
 12 board and submitting evidence of satisfactory completion of the ap-
 13 plicable and continuing education requirements established by the
 14 board. The request shall be on a form provided by the board and
 15 shall be accompanied by the license fee established therefor pur-
 16 suant to under K.S.A. 65-2012 and amendments thereto. The board
 17 shall adopt rules and regulations establishing appropriate and con-
 18 tinuing education requirements for exempt licensees to become li-
 19 censed to regularly practice podiatry within Kansas.

20 (h) Each license or permit granted under this act shall be con-
 21 spicuously displayed at the office or other place of practice of the
 22 licensee or permittee.

23 Sec. 2. K.S.A. 1991 Supp. 65-2809 is hereby amended to read
 24 as follows: 65-2809. (a) The license shall expire on June 30 each
 25 year the date established by rules and regulations of the board ~~and~~
 26 ~~may be renewed annually upon request of the licensee.~~ The request
 27 for renewal shall be on a form provided by the board and shall be
 28 accompanied by the prescribed fee, which shall be paid not later
 29 than the expiration date of the license.

30 (b) Except as otherwise provided in this section, the board shall
 31 require every licensee in the active practice of the healing arts within
 32 the state to submit evidence of satisfactory completion of a program
 33 of continuing education required by the board. The requirements
 34 for continuing education for licensees of each branch of the healing
 35 arts shall be established by the members of such branch on the
 36 board. The board shall adopt rules and regulations prescribing the
 37 requirements established by the members of each branch of the
 38 healing arts for each program of continuing education as soon as
 39 possible after the effective date of this act. In establishing such
 40 requirements the members of the branch of the healing arts es-
 41 tablishing them shall consider any programs of continuing education
 42 currently being offered to such licensees. If, immediately prior to
 43 the effective date of this act, any branch of the healing arts is

which may provide renewal throughout the year on a continuing basis. In each case in which a license is renewed for a period of time of less than one year, the board may prorate the amount of the fee established under K.S.A. 1991 Supp. 65-2852 and amendments thereto.

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1 requiring continuing education or annual postgraduate education as
2 a condition to renewal of a license of a licensee of such branch
3 of the healing arts, such, the requirement as a condition for the
4 renewal of such the license shall continue in full force and effect
5 notwithstanding any other provision of this section to the contrary.

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

13 (d) At least 30 days before the expiration of a licensee's license,
14 the board shall notify the licensee of the expiration by mail addressed
15 to the licensee's last ~~place of residence~~ as noted upon the office
16 records. If the licensee fails to pay the ~~annual~~ fee by the date of
17 the expiration of the license, the licensee shall be given a second
18 notice that the licensee's license has expired, that the board will
19 suspend action for 30 days following the date of expiration, that upon
20 receipt of the annual fee ~~together with~~ and an additional fee of not
21 to exceed \$500 within the thirty-day period the license shall not be
22 canceled and that, if both fees are not received within the thirty-
23 day period, the license shall be cancelled.

24 (e) Any licensee who allows the licensee's license to be canceled
25 by failing to renew as ~~herein provided~~ may be reinstated upon
26 recommendation of the board and upon payment of the renewal fees
27 then due and upon proof of compliance with the continuing edu-
28 cational requirements established by the board.

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

mailing address

renewal

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not be required to submit evidence of satisfactory completion of a program of continuing education required by K.S.A. 65-2809 and amendments thereto. Each exempt licensee may apply for a license to regularly engage in the practice of the appropriate branch of the healing arts upon filing a written application with the board and submitting evidence of satisfactory completion of applicable continuing education requirements established by the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-2852 and amendments thereto. The board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice the healing arts within Kansas. Nothing in this subsection (f) shall be construed to prohibit a person holding an exempt license from serving as a coroner.

Sec. 3. K.S.A. 1991 Supp. 65-2839a is hereby amended to read as follows: 65-2839a. (a) In connection with any investigation by the board of ~~healing arts~~, the board or its duly authorized agents or employees shall at all reasonable times have access to, for the purpose of examination, and the right to copy any document, report, record or other physical evidence of any person being investigated, or any document, report, record or other evidence maintained by and in possession of any clinic, office of a practitioner of the healing arts, laboratory, pharmacy, medical care facility or other public or private agency if such document, report, record or evidence relates to medical competence, unprofessional conduct or the mental or physical ability of a licensee safely to practice the healing arts.

(b) For the purpose of all investigations and proceedings conducted by the board:

(1) The board may issue subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents or any other physical evidence if such evidence relates to medical competence, unprofessional

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conduct or the mental or physical ability of a licensee safely to practice the healing arts. Within five days after the service of the subpoena on any person requiring the production of any evidence in the person's possession or under the person's control, such person may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the physical evidence which is required to be produced. Any member of the board, or any agent designated by the board, may administer oaths or affirmations, examine witnesses and receive such evidence.

(2) Any person appearing before the board shall have the right to be represented by counsel.

(3) The district court, upon application by the board or by the person subpoenaed, shall have jurisdiction to issue an order:

(A) Requiring such person to appear before the board or the boards duly authorized agent to produce evidence relating to the matter under investigation; or

(B) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence which is required to be produced.

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(c) The board may receive from the Kansas Bureau of Investigation or other criminal justice agencies such criminal history record information (including arrest and nonconviction data), criminal intelligence information and information relating to criminal and background investigations as necessary for the purpose of determining initial and continuing qualifications of licensees and registrants of and applicants for licensure and registration by the board. Disclosure or use of any such information received by the board or of any record containing such information, for any purpose other than that provided by this subsection is a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any license or registration issued under this act. Nothing in this subsection shall be construed to make unlawful the disclosure of any such information by the board in a hearing held pursuant to this act.

~~(c)~~ (d) Patient records, including clinical records, medical reports, laboratory statements and reports, files, films, other reports or oral statements relating to diagnostic findings or treatment or patients, information from which a patient or a patient's family might be identified, peer review or risk management records or information received and records kept by the board as a result of the investigation procedure outlined in this section shall be confidential and shall not be disclosed.

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~~(d)~~ (e) Nothing in this section or any other provision of law making communications between a physician and the physician's patient a privileged communication shall apply to investigations or proceedings conducted pursuant to this section. The board and its employees, agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this section.

Sec. 4. K.S.A. 1991 Supp. 65-2898a is hereby amended to read as follows: 65-2898a. (a) Any complaint or report, record or other information relating to a complaint which is received, obtained or maintained by the board shall be confidential and shall not be disclosed by the board or its employees in a manner which identifies or enables identification of the person who is the subject or source of such the information except the information may be disclosed:

(1) In ~~a disciplinary or~~ any proceeding conducted by the board ~~pursuant to~~ under the law or in an appeal of ~~the an~~ order of the board entered in ~~such a~~ proceeding, or to any party to ~~such a~~ proceeding or appeal or ~~such the~~ party's attorney.;

~~(2) To the proper licensing or disciplinary authority of another jurisdiction, if any disciplinary action authorized by K.S.A. 65-2836 and amendments thereto has at any time been taken against the licensee or the board has at any time denied a license to the person.~~

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~~(3)~~ (2) ~~To~~ to a hospital committee which is authorized to grant, limit or deny hospital privileges, if any disciplinary action authorized by K.S.A. 65-2836 and amendments thereto has at any time been taken against the licensee or if the board has at any time denied a license to the person;

~~(4)~~ (3) ~~To~~ to the person who is the subject of the information, or to any person or entity when requested by the person who is the subject of the information, but the board may require disclosure in a manner as to that will prevent identification of any other person who is the subject or source of the information; or

(4) to a state or federal licensing, regulatory or enforcement agency with jurisdiction over the subject of the information or to an agency with jurisdiction over acts or conduct similar to acts or conduct which would constitute grounds for action under this act. Any confidential complaint or report, record or other information disclosed by the board as authorized by this section shall not be redisclosed by the receiving agency except as otherwise allowed by law.

Sec. 3- 5.

K.S.A. 65-2910 is hereby amended to read as follows:
65-2910. (a) ~~The registration of every registered physical therapist or and of every certified physical therapist assistant shall, during each January, apply to the board for an extension of such person's registration or certification and pay a fee as determined by the board expire on the date established by rules and regulations~~

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of the state board of healing arts ~~and may be renewed annually upon request of the registrant or certificate holder.~~ The request for renewal shall be on a form provided by the board and shall be accompanied by the renewal fee established pursuant to K.S.A. 65-2911 and amendments thereto which shall be paid not later than the expiration date of the registration or certificate.

which may provide renewal throughout the year on a continuing basis. In each in which a registration or certificate is renewed for a period of time of less than one year, the board may prorate the amount of the fee established under K.S.A. 1991 Supp. 65-2911 and amendments thereto.

under 1991 Supp.

(b) The state board of healing arts shall require every registered physical therapist or certified physical therapist assistant as a condition of ~~extension renewal~~ ~~[of registration]~~ to submit with the application for ~~an extension a renewal~~ ~~[of registration]~~ evidence of satisfactory completion of a program of continuing education required by the board. The board by ~~duly adopted rules and regulations~~ shall establish the requirements for each such program of continuing education ~~by rules and regulations~~. In establishing such requirements the board shall consider any existing programs of continuing education currently being offered to registered physical therapists or certified physical therapist assistants. ~~Any registration or certification that is not so extended on or before January 31, each year, shall automatically lapse on that date. The board, in its discretion, may revive and extend a lapsed registration or certification upon payment of the full amount of the delinquent fee together with an additional fee established by the board of~~

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not to exceed \$30 and, in the case of a registration, upon that the registered physical therapist has satisfactorily completed a program of continuing education required by board.

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

(d) At least 30 days before the expiration of the registration of a physical therapist or the certificate of a physical therapist assistant, the state board of healing arts shall notify the registrant or certificate holder of the expiration by mail addressed to the registrant's last mailing address as noted upon the office records. If the registrant or certificate holder fails to pay the renewal fee by the date of expiration, the registrant or certificate holder shall be given a second notice that the registration or certificate has expired and the registration or certificate may be renewed only if the renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, the registration or certificate shall be considered to have lapsed for failure to renew and shall be reissued only after the physical therapist or physical therapist assistant has been reinstated under subsection (e).

(e) Any registrant or certificate holder who allows the registration or certificate to lapse by failing to renew may be reinstated upon recommendation of the state board of healing arts and upon payment of the renewal fee and the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable reeducation and continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate reeducation and continuing education requirements for reinstatement of persons whose registrations or certificates have lapsed for failure to renew.

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Sec. 4 ~~6~~. K.S.A. 65-2910 and K.S.A. 1991 Supp. 65-2005 and 65-2839a, 65-2898a and 65-2809 are hereby repealed.

Sec. 5 ~~7~~. This act shall take effect and be in force from and after its publication in the statute book.

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Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

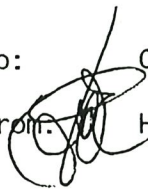
March 31, 1992

1260 S.W. Topeka Blvd.

Topeka, Kansas 66612

(913) 234-5563

To: Chairperson Sader, and Members, Senate Public Health Committee

From:  Harold E. Riehm, Executive Director, Kansas Association of Osteopathic Medicine


Subject: Testimony in Support of S.B. 709 and Amendments Suggested by the Kansas State Board of Healing Arts

Thank you for this opportunity to testify in support of S.B. 709.

This Bill, in its present form, would permit the Board of Healing Arts to stagger dates on which renewal of licenses issued by the Board would occur. Presently, all licenses are due for renewal the same date, providing an extremely busy period of time for the Board's staff. Staggering dates, perhaps by birth of licensees, would permit a more regularized and orderly approach to licensing, with the work load spread over the entire year. We anticipate serving as a major source of information to the physicians I represent, should S.B. 709 be passed into law.

It is our understanding that the Kansas State Board of Healing Arts, through the testimony of Mr. Larry Buening, will suggest amending into S.B. 709 selected provisions of S.B. 694 which was not reported out of Senate Public Health Committee. Primarily, the amendment will provide access to information of the KBI and other criminal justice agencies, when that information is relevant to examining initial and continuing qualifications of licensees of the Board, and permit a greater sharing of information among agencies.

We support both the original S.B. 709, and the amendments proposed by the Board of Healing Arts.


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Baylor
College of
Dentistry



3302 Gaston Avenue • (214) 828-8380 • Dallas, Texas 75246

Department of Operative Dentistry

24 March 1992

The Honorable Lana Oleen
The State Senate
Topeka, Kansas 66612

Dear Senator Oleen,

This letter is written in response to Senate Bill 603, which I strongly support and hope for its passage into law. Recently, I presented a hands-on continuing education course in dentistry for the Midwestern Institute for Advanced Dental Studies. I was greatly dismayed because of the inability of non-Kansas residents to participate in the course involving patient treatment. In essence, their role was relegated to bystanders in a non-contributory manner. The nature of this course requires a clinical hands-on approach in order to completely benefit from the educational experience. Indeed, it was a pity that competent practitioners from other, adjacent jurisdictions could not be given the opportunity to fully learn new techniques and apply them in their dental practices. The individuals who attended this course should be commended for their willingness to expand their horizons and offer a higher degree of care to their patients, even though the potential for learning could not be completely fulfilled.

It is my belief that the State of Kansas can significantly benefit from the passage of this bill because of the enhanced aspirations for patient treatment that these non-Kansas residents possess. Wouldn't it be advantageous for the image of the State of Kansas to have non-resident professionals leave with a positive experience, eager to have other individuals return because of the outstanding training? I am thankful of the efforts of those enlightened legislators, like yourself, who can rise above the discord and petty disagreement to help the community at-large by enhancing the quality of oral health care.

Respectfully,

Charles J. Arcoria, D.D.S.
Associate Professor

P. Arcoria
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