

Approved 4-7-92
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

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

10:00 a.m./p.m. on March 30,, 1992 in room 526-G 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:

- Pat Johnson, Kansas State Board of Nursing
- Terri Roberts, Kansas State Nurses Association
- Dana Kelly, R.N.
- Yo Bestgen, Kansas Association of Rehabilitation Facilities
- Elizabeth Taylor, Kansas Federation of Licensed Practical Nurses, Inc.

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

Hearing on HB 2882 - Exemptions from licensure requirements for nurses and mental health technicians.

Pat Johnson, KSBN, submitted written testimony and appeared in support of **HB 2882** which would allow registered professional and practical nurses to delegate nursing tasks. These individuals would be under the supervision of a registered professional nurse or a licensed practical nurse. Ms. Johnson stated this provision would add flexibility through a safe process to provide progressive nursing care, and changing the law to allow the nurse expanded delegation would allow for use of nonlicensed personnel by the registered professional or practical nurse while not jeopardizing patient safety. (Attachment 1)

Terri Roberts, KSNA, submitted written testimony and appeared in support of **HB 2882** and stated in conjunction with the Board of Nursing, several other nursing organizations participated at round table discussions, and eventually on a task force to develop the proposed legislation. A copy of the background paper, "Nursing Delegation Issues in Kansas," was also distributed to the Committee. (Attachment 2)

Dana Kelly, R.N, submitted written testimony and appeared in support of **HB 2882**. Ms. Kelly told of her son who needed gastrostomy feedings while in the hospital, and the need now to change the Kansas Nurse Practice Act so that the licensed care providers would be able to administer medications and gastrostomy feedings. (Attachment 3)

Yo Bestgen, KARF, submitted written testimony in support of **HB 2882** and read the agreement between the Kansas State Board of Nursing, Kansas State Nurses Association, SRS and Kansas Association of Rehabilitation Facilities when hearings were held before the House Public Health and Welfare Committee. (Attachment 4)

Elizabeth Taylor, representing the Kansas Federation of Licensed Practical Nurses, Inc., submitted written testimony and stated the policy decision expressed in **HB 2882** are ones which have been negotiated by the Kansas State Board of Nursing on which sit three LPN members. Ms. Taylor stated that because the language in the bill had been agreed upon, the general position of the KFLPN on delegating further nursing procedures to non-nursing personnel strictly prohibits such

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 SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 30, 1992

delegation. Their concern is that not all Kansans would be provided with the same level of nursing care when further delineation of services exists without direct supervision by a licensed professional or practical nurse. (Attachment 5)

Written testimony in support of the bill was received from George Vega, SRS. (Attachment 6)

Hearing on HB 2883 - Board of nursing fees and temporary authorizations to practice nurse anesthesia.

Pat Johnson, KSBN, submitted written testimony and stated **HB 2883** was prepared to establish some new temporary permit categories and to set maximum fees that may be charged by the Board of Nursing. Establishment of the temporary permits has been undertaken to allow greater flexibility for a nurse, advanced registered nurse practitioner, or licensed mental health technician to begin work while completing licensure requirements. Ms. Johnson stated one change was overlooked in Section 2 regarding reinstatement fees for continuing nursing education providership, and a balloon of the bill was submitted that would insert on page 2, after line 10, "Reinstatement for continuing education provider - \$150." (Attachment 7)

Terri Roberts, KSNA, submitted written testimony and stated her organization supports the bill in its House amended version and also the amendment offered by the Board of Nursing. (Attachment 8) During Committee discussion Ms. Roberts stated she did see significant relationship between **HB 2882 and HB 3071**.

Elizabeth Taylor stated that with the House amendments in **HB 2883** regarding fee increases, KFLPN now supports the bill. (See **HB 2883** in Attachment 5)

Hearing on HB 3070 - Licensing of and proceedings against nurses and mental health technicians.

Pat Johnson, KSBN, submitted written testimony in support of **HB 3070** and outlined the changes in the bill as amended by the House Committee. Ms. Johnson stated that because of the need for the administrative fines, a request that the bill be effective upon publication in the Kansas Register was made. (Attachment 9)

Terri Roberts submitted written testimony and stated that the KSNA supports **HB 3070** as amended, (Attachment 10); and Elizabeth Taylor stated KFLPN also supports the bill.

Hearing on HB 3071 - Grounds for disciplinary actions by board of nursing.

Pat Johnson, KSBN, submitted written testimony in support of **HB 3071**. Ms. Johnson stated the grounds for disciplinary action have been updated for all Board of Nursing licensees in the bill, however, the Board convened a task force, but differences of opinion still exist. Although the Board is in agreement to the amendment on page 2, lines 5-15, restriction of specific drugs through rules and regulations would provide more flexibility. (Attachment 11) During Committee discussion, Diane Glenn, KSBN, stated there have been 5 cases in the last month of mismanagement of medication (IV therapy) by an LPN. Ms. Johnson also stated that the status of the law now for an LPN to administer IV therapy is very broad and they are under the supervision of a nurse or a physician, and KSBN therefore felt more restrictions need to be imposed. An LPN in Missouri must take an advanced course and be certified by the Missouri Board of Nursing. In regard to public censure as reference on page 2, line 17, Ms. Glenn stated the Board of Nursing would look at the individual case and the name of that person would be published in the local newspaper and KSBN newsletter and what that individual did wrong. If the District Attorney prosecuted someone, that case would probably be a felony and the action would affect their license. The Chairman announced that hearing on **HB 3071** would continue at the next meeting.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 30, 1992

Having voting on the prevailing side, Senator Walker made a motion that the Committee reconsider action on **HB 3102**, seconded by Senator Langworthy. No discussion followed. The motion carried. The Chairman asked for wishes of the Committee on **HB 3102**. Senator Walker made a motion to strike the provisions for paying members of the Podiatry review committee and report **HB 3102 as amended** favorably for passage, seconded by Senator Burke. No discussion followed. The motion carried.

The meeting was adjourned at 11:00 a.m. The next meeting of the Committee is scheduled for March 31, 1992, 10:00 a.m., Room 526-S.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3-30-92

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

(PLEASE PRINT) NAME AND ADDRESS	ORGANIZATION
Linda S. McCulloch 213 Timberlane Ct. Haysville KS 67060	Critical care nurses
Mary Kopp 700 SW Jackson Topeka	K.S.N.A
Lois Ann Neuman 2112 So Topeka 67211 Wichita	dist 6 K.S.N.A
Jana Floyd Rm	DON Merton Co Hosp Edinburg
Pat McKeelip	KSBN
Mari Clynch	KSBN - Topeka
Janette Pucci	KSBN - Topeka
Elise Glory	KFLPN - Ottawa
Jo Ann Pawler	LPN Topeka
Susan Fry	KONE
Tom Bell	Ks. Hosp. Assn.
Vera Streit	KCPNE
Refugio More Topeka	KSBE
ELIZABETH E. TAYLOR	FED OF LICENSED ^{Nurses} Practitioners
Darwin Hirsch	SRS/MH & PS
Marilyn Braadt Lawrence	KLNH
Lela Paslay Topeka	ARC/KS
Dana S. Kelly Topeka	parent, TARC

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3-30-92

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Yo Bestgen
Topoka

KARF

BOB GEERS
TOPEKA

ARC/Ks

LISA Getz
Wichita

Wichita Hospitals

Chip Wheelen
Topoka

Ks Medical Soc.

Kansas State Board of Nursing

Landon State Office Building
900 S.W. Jackson, Rm. 551
Topeka, Kansas 66612-1230
913-296-4929



Patsy L. Johnson, R.N., M.N.
Executive Administrator
913-296-3068

TO: The Honorable Senator Roy Ehrlich Chairperson and Members
of the Public Health & Welfare Committee

FROM: Patsy L. Johnson, R.N., M.N.
Executive Administrator
Kansas State Board of Nursing

DATE: March 30, 1992

RE: HB 2882

The proposed change in HB 2882 is in K.S.A. 65-1124, acts which are not prohibited. A number of nursing organizations have worked with the Board to develop the addition to this statute which will allow registered professional and practical nurses to delegate nursing tasks. These nursing tasks would not require any nursing decisions while performing them. The nurse who is delegating has full responsibility to determine what, when, and whom the task may be delegated. Of course the person would have to be competent to perform the delegated task. These individuals would be under the supervision of a registered professional nurse or a licensed practical nurse. As used by the Board of Nursing, supervision is defined by the National Council of State Boards in a 1990 concept paper on delegation as, "Provision of guidance by a qualified nurse for the accomplishment of a nursing task or activity with initial direction of the task or activity and periodic inspection of the actual act of accomplishing the task or activity. Total nursing care of an individual remains the responsibility and accountability of the nurse." I have included the position paper.

Some practical situations that present the need for this change in the law to allow nurses to delegate nursing procedures include the use of nurse technicians who are often student nurses. The students have completed a portion of their nursing education and are employed by a facility. After assessing competency, nursing management would like these technicians to be able to do catheterizations, sterile dressing changes, nasogastric tube feedings, and other similar types of procedures.

Janette Pucci, R.N., M.S.N.
Education Specialist
296-3782

Diane Glynn, R.N., J.D.
Practice Specialist
296-3783

Senate P. How
Attachment # 1
3-30-92
Patricia McKillip, R.N., M.N.
Education Specialist
296-3782

Another situation often discussed is the use of emergency medical service (EMS) personnel in emergency rooms in hospitals. While physicians may delegate under Healing Arts, K.S.A. 65-2872(g), nurses have been restricted to the delegation of auxiliary patient care services. With expansion of nurses' delegation privileges, selected nursing procedures could be delegated to nonlicensed personnel who are EMS technicians.

The new provision would add flexibility through a safe process to provide progressive nursing care. During this time of a technology explosion and with an increasing patient acuity level in all areas of nursing, licensed nurses are hard pressed to provide all the nursing care that is needed. The best educated should be providing the more complex care which requires decision making, while the more routine tasks can be taught and delegated to either other licensed or nonlicensed individuals. A nurse should have the option to assess situations and delegate appropriately. Changing the law to allow the nurse expanded delegation allows for use of nonlicensed personnel by the registered professional or practical nurse while not jeopardizing patient safety.

The Board hopes you will consider passage of HB 2882.

Thank you. I will be glad to answer your questions.

Concept Paper on Delegation

Purpose

The purpose of the National Council formulating this concept paper is to provide to Member Boards a conceptual basis for delegation from a regulatory perspective. It is the position of the National Council that licensed nurses, in accordance with board of nursing requirements, determine the appropriateness of delegating acts from their scopes of practice. Each person involved in the delegation process is accountable for his/her own actions in this process. There is potential liability if competent, safe care is not the outcome of the delegation.

Premises

1. Performance of non-nurse delegated and non-nurse supervised nursing activities by unlicensed persons constitutes practicing nursing without a license and is not in the interest of the health, safety, and welfare of the public.
2. Pieces of care cannot be provided in isolation by unlicensed persons functioning independently of the nurse if the health, safety, and welfare of the public is to be assured.
3. Boards of nursing need to work to assure evidence of adequate nurse involvement where nursing services are being provided and delegated.
4. Boards should promulgate clear rules for delegation in all settings where nursing care is delivered.
5. Boards need to clearly define delegation in regulation.
6. A limited supply of nurses must not be used as an excuse for inappropriate delegation to unlicensed persons.
7. Regulations regarding the delegation of nursing functions must be linked to the disciplinary process.
8. Boards need to pursue criminal prosecution when there is clear evidence that unlicensed persons are performing nursing activities not delegated by nurses.

Premises 1-8 from 1987 "Position Statement on Nursing Activities of Unlicensed Persons."

9. While tasks and procedures may be delegated, the functions of assessment, evaluation and nursing judgement should not be delegated.
10. While non-nurses may suggest which nursing acts may be delegated, it is the licensed nurse who ultimately decides the appropriateness of delegation.
11. The unlicensed person cannot redelegate a delegated act.
12. Boards of nursing must develop clear rules on determination of competence of persons to perform delegated nursing tasks or procedures, the level of supervision necessary, and which acts may be delegated.

Definitions

Delegation

Transferring to a competent individual authority to perform a selected nursing task in a selected situation.

Delegator

The person making the delegation.

Delegate

The person receiving the delegation.

Supervision

“Provision of guidance by a qualified nurse for the accomplishment of a nursing task or activity with initial direction of the task or activity and periodic inspection of the actual act of accomplishing the task or activity. Total nursing care of an individual remains the responsibility and accountability of the nurse.” 1987 “Position Statement on Activities of Unlicensed Persons.”

Liability

As used in this paper, the term is limited to the regulatory accountability of a licensee to the licensing agency. Other types of liability (i.e. civil liability) are beyond the scope of this paper.

Background

In 1987, the Nursing Practice and Standards (NP&S) Committee developed a “Statement on the Nursing Activities of Unlicensed Persons.” (1987 Statement) The Statement presented an overview of the following: 1) use of unlicensed persons to deliver nursing care since the early 1900s; 2) a rationale for board of nursing involvement in the oversight of activities of unlicensed persons; 3) documentation on the frequency and nature of the use of unlicensed persons; 4) operational definitions of key terms used in describing the frequency and nature of the use of unlicensed persons; and 5) conclusions for Member Board consideration in the state-by-state discussion of the frequency and nature of the use of unlicensed persons. The position statement was adopted by the August 1987 Delegate Assembly and has received wide acclaim, distribution and discussion by the nursing and health care community.

In 1989, the Nursing Practice and Education Committee identified a need for further study of this topic and developed this statement on delegation.

Regulatory Perspective - A Framework for Managerial Policies

Nursing is defined in a statutory mandate which requires an individual to have a license to practice. Two nurse roles (RN/LPN) exist and, though there is a legal relationship between the two, each is held accountable for carrying out its role. RNs may delegate professional nursing acts to LPNs and unlicensed persons. LPNs may, in some jurisdictions, delegate acts within the scope of the practice of practical nursing to unlicensed persons. The statutory mandate may also set forth requirements for supervision when nursing acts are delegated. Boards of nursing should provide guidance regarding which acts may or may not be delegated by the nurse. Direction must be provided by boards of nursing regarding supervision, including the proximity of the supervising nurse to the delegate. The nurse who delegates an act to another assumes responsibility for the supervision of the act, whether the nurse is physically present or not.

Nurses traditionally carry out the role of nurse in an employment context and act as agents of the employer. The relationship is complex and is usually carried out in a setting in which the employer controls the nature of both the work of the nurse and the circumstances of the nurse role enactment. The licensed nurse is responsible to the employer for employment activities. The licensed nurse is accountable to the board of nursing for nursing practice.

Though employers vary greatly in approaches to nursing care delivery, there are issues for the nurse that are common to all management styles. Those issues center on four common areas of concern:

1. Who determines the degree of allocation of resources, both human and fiscal?
2. Where does the focus of decision-making related to allocation of resources rest?
3. What level of supervision is required by the employer for the enacting of the role of nurse?
4. What control does the nurse have in determining the nature of the work and the setting/conditions of the work?

Employers of nurses are equally concerned about these issues, but primarily from a management context. It is understandable that there are different approaches by employers and nurses themselves related to these four major concerns and the overall issue of delegation and supervision. Numerous scenarios may develop as a result of different perspectives on delegation and supervision. The employer as the hiring agent is primarily responsible for allocation of all resources. Therefore, policies requiring working in any setting based on organizational need is something that appears reasonable in a managerial context. From a regulatory context, however, assignment to a

practice area without current competence creates concern about client safety and welfare that is even more critical. The managerial understanding is that the nurse is hired to carry out a specific role on behalf of the employer and that the employer has the authority to assign the nurse as desired. The regulatory perspective holds the nurse accountable for all nursing actions. The licensed nurse has a responsibility not to accept an assignment which the nurse is unable to perform safely. It is important to distinguish the uncomfortable situation where a nurse is expected to work in an unfamiliar setting within the nurse's usual area of practice from the unsafe situation where a nurse is expected to work in a new setting, outside the nurse's usual area of practice, without adequate orientation, education and supervision.

The regulatory perspective should serve as a framework for managerial policies related to the employment and utilization of nurses. Employers may attempt to require nurses to delegate, especially when faced with staffing problems. This is inappropriate when the nurse is not willing to delegate. While employers and administrators may suggest which nursing acts should be delegated and to whom the delegation may be made, it is the nurse who ultimately decides and who is accountable for deciding whether the delegation occurs. If the nurse decides that the delegation may not appropriately or safely take place, then the nurse should not engage in such delegation. In fact, if the nurse decides that delegation may not appropriately or safely take place, but nevertheless delegates, he/she may be disciplined by the board of nursing.

Acceptable Use of the Authority to Delegate

The decision to delegate should be based on the following:

- Determination of the task, procedure or function that is to be delegated.
- Staff available.
- Assessment of the client needs.
- Assessment of the potential delegate's competency.
- Consideration of the level of supervision available and a determination of the level and method of supervision required to assure safe performance.

Nurses should avoid delegating practice pervasive functions of assessment, evaluation and nursing judgment. Sometimes there is a differentiation made between the terms "delegation" and "assignment." Delegation involves giving to someone else a task from the delegator's practice. Assignment involves giving to someone else a task within his/her own practice. Based upon this differentiation, the RN would assign acts to other RNs who have the same scope of practice. The RN would delegate to others, e.g, LPNs and unlicensed persons, acts which are within the scope of professional nursing practice. Similarly, the LPN would assign acts within the scope of practice of practical nursing to other LPNs. However, the LPN would, if allowed under the State Nurse Practice Act, delegate practical nursing acts to unlicensed persons.

Licensure Accountability

Every nurse is accountable as an individual for practicing according to the statutory mandate in the nurse's jurisdiction of practice. The delegating nurse is accountable for assessing the situation and is responsible for the decision to delegate. Monitoring, outcome evaluation and follow-up are necessary supervisory activities that follow delegation. The delegator is accountable for the act delegated, and may incur liability if found to be negligent in the process of delegating and supervising.

The delegate is accountable for accepting the delegation and for his/her own actions in carrying out the act. If licensed, this person may incur liability if he/she deviates from safe practice through no fault of the delegating nurse.

Boards of nursing may review situations where a delegating nurse made an acceptable delegation to a competent delegate who erred in the performance of the delegated act. Clearly, the delegate is accountable for his/her actions in performing the delegated act. The delegator would be expected to provide supervisory follow-up such as intervention on behalf of the client and corrective action. The delegator would be accountable for the delegation and supervision provided.

Conclusion

From a regulatory perspective, the nurse is held accountable for both acts directly carried out and acts delegated. This regulatory perspective should serve as the framework for managerial policies related to the employment and utilization of nurses. Where nurse practice acts permit, RNs and LPNs may delegate certain acts within their respective practices. They may be involved in either delegation or assignment, depending upon interpretation of the definitions of these terms. Both the delegating nurse and delegate are accountable for their own actions in the delegation process. Furthermore, the delegating nurse has a responsibility to determine that the delegate is indeed competent to perform the delegated act. Finally, the delegating nurse must provide appropriate supervision. The nurse must be the person who ultimately decides when and under what circumstances delegation is to occur. Non-nursing and managerial persons must not coerce the nurse into compromising client safety by requiring the nurse to delegate. While tasks and procedures may be delegated, the nurse should not delegate practice pervasive functions of assessment, evaluation and nursing judgement.

KSNA

the voice of Nursing in Kansas



FOR MORE INFORMATION CONTACT:

Terri Roberts, J.D., R.N.
Executive Director
Kansas State Nurses' Association
700 S.W. Jackson Suite 601
Topeka, Kansas 66603-3731
(913) 233-8638
March 30, 1992

H.B. 2882 BOARD OF NURSING; ACTS WHICH ARE NOT PROHIBITED

Chairperson Ehrlich, and members of the Senate Public Health and Welfare Committee my name is Terri Roberts R.N. and I am a registered nurse in the state of Kansas and the Executive Director of the Kansas State Nurses' Association. Thank you for the opportunity to speak.

The new (n) language being proposed under **Acts Which Are Not Prohibited** in the current nurse practice act is something that I am proud to announce has been the result of combined efforts from a number of state-wide nursing organizations over the past 18 months. In conjunction with the Board of Nursing, several other nursing organizations participated at round table discussions and eventually on a task force to develop the language before you today. The issue of nursing delegation is being discussed by our respective national organizations and decision making models as well as guidelines and frameworks are being developed to assist nurses in the variety of settings they work. One of the issues that the respective groups agreed upon was the definition of supervision, that being the one used in the 1987 position statement on activities of unlicensed persons developed by the National Council of State Boards of Nursing. That definition of supervision is as follows:

"Provision of guidance by a qualified nurse for the accomplishment of a nursing task or activity with initial direction of the task or activity and periodic inspection of the actual act of accomplishing the task or activity. Total nursing care of an individual remains, responsibility and accountability of the nurse."

X Two other issues that KSNA discussed at length with the various specialty nursing groups was whose responsibility it was to make the decision to delegate and the policy question of whether LPN's could delegate within their scope of practice. We believe strongly that the word independent nursing judgment in the proposed language permits and au

1

Kansas State Nurses' Association Constituent of The American Nurses Association

700 S.W. Jackson, Suite 601 • Topeka, Kansas 66603-3731 • (913) 233-8638 • FAX (913) 233-5222
Michele Hinds, M.N., R.N.—President • Terri Roberts, J.D., R.N.—Executive Director

Senate P. New
Attachment
#2
3-30-92

HB2882
March 30, 1992
Page 2

thorizes the licensed nurse to make the decision whether or not to delegate a particular activity. This decision does not rest with an employer or any other individual, but with the licensed nurse. The policy question regarding delegation by LPN's was agreed upon in the affirmative, recognizing that their scope of practice is limited to those tasks and responsibilities that are based on acceptable educational preparation within the framework of supportive and restorative care.

I have also attached a copy of nursing delegation issues in Kansas which was a background paper that I prepared about 18 months ago on this issue to assist individuals in historical perspective and direction in preparation for what were here today to do. I have attached a copy of that background paper for your reference.

Thank you for the opportunity to present today and I look forward to working with the Board of Nursing on this new statute.

A:hb2882

testimony 92

KANSAS STATE NURSES ASSOCIATION

NURSING DELEGATION ISSUES IN KANSAS

Background Paper

Prepared by Terri Roberts R.N., J.D.

This paper has been prepared to provide readers with a historical overview of actions and position papers developed by various regulatory bodies, including the Kansas Legislature, as well as professional nursing organizations that address issues of nursing delegation.

Nurse Practice Act Exemptions

In 1975 there were two exemptions added to the Kansas Nurse Practice Act (herein after referred to as N.P.A.) within the section entitled "Acts Which Are Not Prohibited" (K.S.A. 65-1124) and they were as follows:

65-1124. Acts which are not prohibited. No provisions of this law shall be construed as prohibiting:

(h) auxilliary patient care services performed in medical care facilities, adult care homes or elsewhere by persons under the direction of a person licensed to practice medicine and surgery or a person licensed to practice dentistry or the supervision of a registered professional nurse or a licensed practical nurse;

(i) the administration of medications to residents of adult care homes or to patients in hospital-based long-term care units by an unlicensed person who has been certified as having satisfactorily completed a training program in medication administration approved by the secretary of health and environment and has completed the program on continuing education adopted by the secretary, or by an unlicensed person while engaged in and as a part of such training program in medication administration;.

The legislative history surrounding the enactment of K.S.A. 65-1124 (h) and (i) provides some guidance to the interpretation of what may or may not be "auxillary patient care services". Clearly the administration of medications is not included in this definition, the fact that another exemption was created in (i) indicates that this was not the legislative intent, therefore (h) was added to the list of exemptions. The language that was proposed in a 1974 Interim Proposal (No. 69 Revision of the Nurse Practice Act) was "minor nursing services" and "duties necessary for the support of nursing services." This recommendation was not adopted and the language "auxillary patient care services" was enacted instead. By definition the Practice of Nursing (K.S.A. 65-1113 (d)) means

the process in which substantial specialized knowledge derived from the biological, physical, and behavioral sciences is applied to: the care, diagnosis, treatment, counsel and health teaching of persons who are experiencing changes in the normal health processes or who require assistance in the maintenance of health or the prevention or management of illness, injury or infirmity; administration, supervision or teaching of the process as defined in this section; and the execution of the medical regimen as prescribed by a person licensed to practice medicine and surgery or a person licensed to practice dentistry.

In 1987 there were two more exceptions added to the Kansas N.P.A., (k) and (l), that addressed a specific client population, students enrolled in the school setting.

(k) performance in the school setting of selected nursing procedures, as specified by rules and regulations of the board, necessary for handicapped students; or

(l) performance in the school setting of selected nursing procedures, as specified by rules and regulations of the board, necessary to accomplish activities of daily living and which are routinely performed by the student or student's family in the home setting.

In 1986 clarification on the school nurse's role in instructing and supervising unlicensed school personnel was sought by a local school district from the Kansas State Board of Nursing (KSBN). The KSBN determined that the Kansas N.P.A. allowed only for registered nurses to provide health services in schools. At that time an interagency task force was convened by the Kansas State Department of Education to study the implications for schools districts. As a result K.S.A. 65-1124 (k) & (l) were added to the exemptions clause of the N.P.A. These changes enabled registered nurses to train and delegate the performance of "selected" nursing procedures to non-nursing personnel in the school setting. Regulations implementing these new exemptions became permanent February 13, 1989. (Attachment #1) Significant and lengthy interdisciplinary discussion and debate preceeded these amendments to the N.P.A. The exemptions were added in the spirit of compromise for this specific client population with predictable and chronic problems. Delegation in these instances was clearly permissive, not mandatory by the Registered Nurse and the accountability for such delegation was assumed by each licensee responsible for the delegated nursing task (K.A.R. 65-15-102).

In 1989 another exemption was added to the N.P.A. that dealt with another very specific client population, functionally disabled adults. This was amended by the 1990 legislature to include "functionally disabled individuals."

(m) performance of attendant care services directed by or on behalf of an individual in need of in-home care as the terms "attendant care services" and "individual in need of in-home care" are defined...

(a) Attendant care services means those basic and ancillary services which enable an individual in need of in-home care to live in the individual's home and community rather than in an institution and to carry out functions of daily living, self-care and mobility.

...(d) "Health maintenance activities" include, but are not limited to, catheter irrigation;; administration of medications, enemas and suppositories; and wound care, if such activities in the opinion of the attending physician or licensed professional nurse may be performed by the individual if the individual were physically capable, and the procedure may be safely performed in the home.

Attempts to create another exemption for "home health" clients needing nursing services failed.

Professional Nursing Organization Activities

In 1981 & 1982 the Kansas State Nurses' Association conducted statewide forums to gather input on the development of a position statement on the use of unlicensed personnel. A formal position paper was adopted in September of 1983 that identifies specific guidelines for the Use of Unlicensed Personnel by Registered Nurses. (Attachment #2) This paper has specific language related to "delegation" and provides both direction and information to Registered Nurses seeking guidance on this issue in their daily practice.

In 1987 the National Council of State Board of Nursing adopted a statement entitled "Position Statement on Nursing Activities of Unlicensed Persons" and in 1990 they adopted a "Concept Paper on Delegation".

In 1989 the Tri-Council for Nursing issued a Statement on "Assistive Care Personnel". (Attachment #3)

The last formal action by the Kansas State Board of Nursing related to unlawful delegation was a letter addressed to the Commissioner of Education (Kansas) that demanded a response related to the unauthorized practice of nursing by unlicensed individuals in Kansas School Districts. (Attachment #4) This letter was the precipitating factor in the interdisciplinary task force that resulted in the N.P.A. exemptions (k) & (l).

Since 1985 there have been no formal disciplinary proceedings against a licensee for the inappropriate delegation of professional nursing under the "unprofessional conduct" regulation. (K.A.R. 60-3-110 (6)).

Article 15.--PERFORMANCE OF
SELECTED NURSING PROCEDURES IN
SCHOOL SETTINGS

60-15-101. Definitions. (a) Each licensed registered professional nurse in the school setting shall be responsible for the nature and quality of all nursing care that a pupil is given under the direction of the nurse in the school setting. Assessment of the nursing needs of a pupil, the plan of nursing action, implementation of the plan, and evaluation are essential components of professional nursing practice and are the responsibility of the licensed registered professional nurse.

(b) When used in this article, the following definitions shall apply:

(1) "Unlicensed persons" includes, but is not limited to the following school personnel: teachers, secretaries, administrators, and paraprofessionals.

(2) "Delegation" means authorizing an unlicensed person to perform selected nursing tasks in the school setting under the direction of a licensed registered professional nurse.

(3) "Activities of daily living" means basic caretaking or specialized caretaking.

(4) "Basic caretaking" means bathing, dressing, grooming, routine dental, hair and skin care, preparation of food for oral feeding, exercise excluding occupational therapy and physical therapy procedures, toileting including diapering and toilet training, handwashing, transfer and ambulation.

(5) "Specialized caretaking" means catheterization, ostomy care, preparation of food and tube feedings, care of damaged skin integrity, administering medications and performing other procedures requiring nursing judgment.

(6) "Handicapped student" means a person who is enrolled in any accredited public or non-public school education program who requires nursing procedures during regular school attendance hours. Handicapped student also includes exceptional children as defined in K.S.A. 1987 Supp. 72-962.

(7) "Nursing judgment" means the exercise of knowledge and discretion derived from the biological physical and behavioral sciences.

(8) "School setting" means any accredited public or non-public school environment during regular school attendance hours.

(9) "Supervision" means that the licensed registered professional nurse shall oversee the delegated task.

(10) "Medication" means any drug required by the Federal or State Food, Drug and Cosmetic Act to bear on its label the legend "caution: Federal law prohibits dispensing without prescription."

(c) In fulfilling the responsibilities for nursing care each school nurse shall:

(1) Serve as a health advocate for pupils;

(2) counsel and teach individuals, families and groups about health, illness and promote health maintenance;

(3) serve as a health consultant and as a resource to teachers and administrators serving pupils having health services needs during school attendance hours; and

(4) utilize theories, skills of communication and the teaching-learning process to increase the health, knowledge and functioning of the multidisciplinary education evaluation team as the strengths and weakness of pupils are assessed. The recommendations for appropriate educational placement shall be made from the team evaluation.

(d) The full utilization of the services of a licensed registered professional nurse may be supplemented by the delegation and supervision of selected nursing tasks to unlicensed personnel. (Authorized by K.S.A. 65-1229; implementing K.S.A. 65-1113 and K.S.A. 1987 Supp. 65-1124; effective, T-89-23, May 27, 1988; amended, T-60-9-12-88, Sept. 12, 1988; amended Feb. 13, 1989.)

60-15-102. Delegation Procedures. Delegation of nursing tasks to a designated unlicensed person in the school setting shall comply with the following recommendations:

(a) Each licensed registered professional nurse shall assess the pupil's nursing care needs and formulate a written nursing plan of care before delegating any nursing task to an unlicensed person.

(b) The selected nursing task to be delegated shall be one that a reasonable and prudent licensed registered professional nurse determines to be within the scope of sound nursing judgment and which can be performed properly and safely by an unlicensed person.

(c) Activities of daily living, defined in K.A.R. 60-15-101 (b) as basic caretaking may be performed without delegation. Activities of daily living, defined as specialized caretaking in K.A.R. 60-15-101 (b) shall be assessed and delegated as appropriate.

(d) The selected nursing task shall not require the designated unlicensed person to exercise nursing judgment or intervention except in emergency situations.

(e) The designated unlicensed person to whom the nursing task is delegated shall be adequately identified by name in writing for each delegated task.

(f) The licensed registered professional nurse shall orient and instruct in the performance of the nursing task. Return demonstration of the competency necessary to perform the delegated task shall be documented in writing. The designated unlicensed person shall co-sign the documentation indicating the person's concurrence with this competency evaluation.

(g) The licensed registered professional nurse shall be accountable and responsible for the delegated nursing task. The licensed registered professional nurse shall:

(1) Participate in periodic and joint evaluations of the services rendered; and

(2) record and monitor recorded services.

(h) The licensed registered professional nurse shall adequately supervise the performance of the delegated nursing task in accordance with the requirements of K.A.R. 60-15-103 of this regulation. (Authorized by K.S.A. 65-1129; implementing K.S.A. 1987 Supp. 65-1124; effective, T-89-23, May 27, 1988, amended, T-60-9-12-88 Sept. 12, 1988; amended Feb. 13, 1989.)

60-15-103. Supervision of Delegated Tasks. All nursing tasks delegated to a designated unlicensed person in the school setting shall be supervised in accordance with the following conditions:

(a) The degree of supervision required shall be determined by the licensed registered professional nurse after an assessment of appropriate factors including:

(1) The health status and stability of the pupil;

(2) the complexity of the task to be delegated;

(3) The training and competency of the designated unlicensed person to whom the task is to be delegated; and

(4) the proximity and availability of the licensed registered professional nurse to the designated unlicensed person when the selected nursing task will be performed.

(b) The delegating licensed registered professional nurse may designate whether the nursing task is one which may be supervised by a licensed practical nurse.

(c) Each delegating licensed registered professional nurse shall designate an alternate supervising registered professional nurse or licensed practical nurse. The delegating nurse or designated alternate shall be readily available either in person or by telecommunication. (Authorized by K.S.A. 65-1129; implementing K.S.A. 1987 Supp. 65-1124; effective, T-89-23, May 27, 1988 amended,

T-69-9-12-88, Sept. 12, 1988, amended Feb. 13, 1989.)

60-15-104. Administration of Medications in the School Setting. The administration of medications shall be delegated only in accordance with this regulation.

(a) A licensed registered professional nurse may delegate the administration of medications to unlicensed persons if:

(1) The administration of the initial dose of a medication has been previously administered to the pupil;

(2) the administration does not require calculation of any medication dosage. Measuring a prescribed amount of liquid medication or breaking a tablet for administration is not calculation of medication dosage.

(b) The following acts shall not be delegated to unlicensed persons:

(1) The administration of medications by intravenous or intramuscular injection route;

(2) the administration of medications through intermittent positive pressure breathing machines; or

(3) the administration of medications through a tube inserted into a cavity of the body with the exception of medications administered through feeding tubes.

(Authorized by K.S.A. 1987 Supp. 65-1124; effective, T-89-23, May 27, 1988; amended, T-60-9-12-88, Sept. 12, 1988; amended Feb. 13, 1989.)

DR. LOIS RICH SCIBETTA
Executive Administrator
Kansas State Board of
Nursing

Doc. No. 007326

KSNA

the voice of Nursing in Kansas

KSNA Position Statement on the Use of Unlicensed Personnel

The legal definition of Nursing in Kansas clearly states that the registered nurse uses substantial specialized knowledge of the biological, physical, and behavioral sciences in deriving a nursing diagnosis and in developing and implementing a plan of care. In this process, the registered nurse exercises nursing knowledge, judgment and skill.

Some tasks required in implementing a plan of care may be delegated by the registered nurse to unlicensed personnel. The registered nurse uses professional judgment to decide which tasks can be delegated and to whom. Legally, the registered nurse is responsible and accountable for the unlicensed person's performance of that task and the consequences of that action.

Since registered nurses are responsible for the acts of unlicensed personnel in performing delegated tasks, registered nurses need to be in control of the activities which are delegated to the unlicensed personnel. Legal accountability alone is not the only motivating factor in determining delegation of tasks to unlicensed personnel. Registered nurses have a responsibility to the public as well as to their profession to deliver a high quality of health care. Thus, in order to assist registered nurses to adhere to the professional standards of practice within the scope of the Nurse Practice Act, the following are guidelines delineating the contributions that unlicensed personnel may make in the delivery of nursing care.

Guidelines for the Use of Unlicensed Personnel:

1. The registered nurse has the responsibility to verify the preparation and ability of unlicensed personnel to perform a specific task prior to its delegation in each situation.
2. Unlicensed personnel may assist in the collection and reporting of data including, but not limited to:
 - a. vital signs, height, weight, intake and output, clintest and hematest results.
 - b. changes from baseline data established by the registered nurse.

- c. unsafe environmental situations.
- d. significant patient/client or family comments.

e. behaviors related to the plan of care.

3. Unlicensed personnel may contribute to the implementation of the plan of care in situations where the activity does not jeopardize the patient client's welfare by assisting with activities including but not limited to:

- a. personal hygiene and elimination.
- b. ambulation, positioning, turning.
- c. socialization activities....
- d. the provision of call lights, night lights or side rails.
- e. non-invasive treatments.
- f. feeding, cutting up food or placing meal trays.

g. transportation of patients clients.

4. Some aspects of the nursing process cannot be delegated to unlicensed personnel including the following:

a. Any assessment which requires professional nursing judgment or intervention, cannot be delegated to unlicensed personnel. Examples may include vital signs in an intensive care unit, digital examinations or initial nursing assessment.

b. Deriving the nursing diagnosis and establishing the nursing goals require nursing knowledge and judgment that cannot be delegated to unlicensed personnel.

c. The plan of nursing care must include setting priorities and prescribing nursing approaches to achieve the goals derived from the nursing diagnosis. As such, it must be developed by the registered nurse, and cannot be delegated to unlicensed personnel.

d. Specific tasks involved in the implementation of the plan of care which require nursing judgment may be delegated to unlicensed personnel only after the nursing judgment has been made in each situation. Examples may include such delegated tasks as medications, enemas until clear or suctioning.

e. It is the registered nurse's responsibility to insure that patient client participation is addressed in the plan of care. The responsibility for this cannot be delegated although other members of the health care team may participate in implementing this aspect of the plan of care.

f. The evaluation of the patient's client progress or lack of progress toward goal achievement determines revisions in the plan of care, requires professional nursing judgment and, therefore, cannot be delegated to unlicensed personnel.

Approved by KSNA Board of Directors
September 10, 1983.

Tri Council for Nursing

Statement on Assistive Personnel to the Registered Nurse

Nursing is an essential component of health care, and the consumer of health care needs to be assured of the availability, accessibility, and quality of nursing care. It is in the spirit of this responsibility that this statement related to the use of assistive personnel has been developed. Historically, unlicensed personnel have assisted registered nurses in the delivery of patient care. However, in recent years, with economic demands driving the delivery system, there have been increasing concerns about the role of assistive personnel. It is extremely important to use assistants in a manner that assures appropriate delegation or assignment of nursing functions and adequate direction and supervision of individuals to whom nursing activities are delegated.

American Association of Colleges of Nursing
One DuPont Circle - Suite 530
Washington, D.C. 20036
202-463-6933
FAX 202-765-6321

American Nurses' Association, Inc.
2420 Pershing Road
Kansas City, Missouri 64108
816-474-5720
FAX 816-471-4903
FAX 202-542-4375

American Organization of Nurse Executives
846 North Lake Shore Drive
Chicago, Illinois 60611
312-280-5213
FAX 312-280-5995

National League for Nursing
330 Hudson Street
New York, New York 10014
212-989-9393
FAX 212-989-5710

Patient care is delivered today by a staff mix of Registered Nurses (RN), Licensed Practical/Vocational Nurses (LPN), and unlicensed personnel in assistive roles. The term "assistive personnel" is used to recognize the trained/unlicensed health care worker who is employed within the continuum of acute hospital care to home health, ambulatory and long term care. Two categories of assistive personnel are generally recognized: the patient care assistant to whom the RN delegates or assigns aspects of nursing care and who functions under the supervision of the Registered Nurse, and the unit assistant who supports the nursing care system through a variety of non-nursing activities.

Many clinical settings are revising the staff mix needed for the delivery of patient care because of changing patient needs, the economics of reimbursement, and demand driven shortages of nursing personnel. A variety of manpower models are being explored and refined as the industry strives to balance quality and cost issues. The ultimate aim is to reallocate nursing and non-nursing activities to enable the registered nurse to focus on the patient. Specific models are best crafted at the point of delivery of care.

The nursing profession is accountable for the quality of the service it provides to the consumer. This includes the responsibility for developing nursing policies and procedures and setting the standards of practice for the nursing care of populations being served. It is further incumbent on the nursing profession to define the appropriate educational preparation and role of any group providing services within the scope of nursing practice. The State Board of Nursing is responsible for the legal regulation of nursing practice for the RN and LPN and should be responsible for the regulation of any other category of personnel who assists in the provision of direct nursing care. Professional and statutory provisions require that when the RN delegates and assigns direct nursing care activities to LPNs and assistive personnel, appropriate reporting relationships are established and the RN supervises all personnel to whom these activities have been delegated. In all situations, registered nurses and licensed practical nurses are responsible and accountable for their respective individual nursing activities. These relationships should be made explicit in workplace policies.

1/15/90

2-10



KANSAS STATE BOARD OF NURSING

BOX 1098, 503 KANSAS AVENUE, SUITE 330
TOPEKA, KANSAS 66601

Telephone 913/296-4929

August 22, 1986

Dr. Harold Blackburn
Commissioner of Education
Kansas Department of Education
120 East Tenth Street
Topeka, Kansas 66612

Dear Dr. Blackburn:

The Kansas State Board of Nursing has directed me to bring to your attention a serious matter involving possible unlawful delivery of nursing services in Kansas public schools. The Board of Nursing has learned this problem arises, in part, out of the attempt by public schools to comply with the "Education of the Handicapped Act," and the Tatro decision from the United States Supreme Court. The delivery of nursing services by unqualified personnel may occur in some schools because of ignorance of the laws regulating the practice of nursing. Whatever the cause, some public schools are apparently encouraging or condoning the delivery of nursing services to handicapped or medically restricted students by unqualified personnel.

The Board of Nursing has an obligation to enforce the Nurse Practice Act. K.S.A. 65-1113 et. seq. Enforcement may require disciplinary action against school nurses who participate in or condone violation of the Nurse Practice Act. Civil injunctive action against specific schools and school personnel is an alternative enforcement measure. The advent of another school term may force the Board of Nursing to investigate and take legal action unless it receives reliable assurance that Kansas public schools are cognizant of their actions, and will take steps to avoid violation of the Nurse Practice Act. Although the Board of Nursing wishes to avoid being forced to take legal action, the Board cannot shirk its responsibility to enforce the Nurse Practice Act.

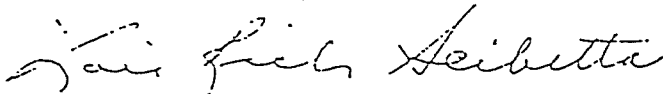
The Board is aware that several interested parties are studying and evaluating these school nursing issues, i.e. Kansas State Nurses' Association, Department of Health and Environment, Topeka Public Schools and the Kansas School Nurse Organization. Nevertheless, the Board has no conduit with the state public schools which could provide the assurance necessary to alleviate Board concern about the coming school year. As a result, the Board has concluded the State Department of Education may be the appropriate agency to disseminate Board of Nursing concerns and provide assurance to the Board of Nursing.

The Board of Nursing also believes the State Department of Education may be in the best position to establish or host a multi-disciplinary task force. The task force or study forum could assimilate the views and concerns of the many parties who are effected by this issue, and make recommendations for avoiding unlawful delivery of nursing services in public schools. Although the Board of Nursing is interested in participating in a forum which would study and recommend alternatives, the Board's obligation to enforce the Nurse Practice Act prevents the Board from establishing or hosting such a program. The issues raised by the facts may have a broader impact on the administration of schools, than on the practice of nursing.

In summary, the Board of Nursing would appreciate a response from the State Department of Education addressing the following matters: Is the State Department of Education prepared to communicate the concerns of the Board of Nursing to Kansas public schools and certified school nurses. Can the State Board of Education provide any assurance to the Board of Nursing that Kansas public schools will avoid or cease unlawful delivery of nursing services. Will the State Department of Education take steps to organize a forum for study of the issues, with an objective to recommend a long term solution for this continuing problem.

The Board will sincerely appreciate your cooperation in addressing this issue of mutual concern. Please feel free to contact me if you have any questions regarding this matter.

Sincerely,



Lois Rich Scibetta, Ph.D., R.N.
Executive Administrator

LRS/amm

CC: Stephen Carlow, Assistant Attorney General
O. Patricia Diamond, R.N., President, K.S.B.N.
Dr. Elaine Harvey, K.S.B.N.
Joan Olden Brake, R.N., K.S.B.N.
✓ Joyce Markendorff, R.N., Dept. of Health and Environment

Article 15.--PERFORMANCE OF
SELECTED NURSING PROCEDURES IN
SCHOOL SETTINGS

60-15-101. Definitions. (a) Each licensed registered professional nurse in the school setting shall be responsible for the nature and quality of all nursing care that a pupil is given under the direction of the nurse in the school setting. Assessment of the nursing needs of a pupil, the plan of nursing action, implementation of the plan, and evaluation are essential components of professional nursing practice and are the responsibility of the licensed registered professional nurse.

(b) When used in this article, the following definitions shall apply:

(1) "Unlicensed persons" includes, but is not limited to the following school personnel: teachers, secretaries, administrators, and paraprofessionals.

(2) "Delegation" means authorizing an unlicensed person to perform selected nursing tasks in the school setting under the direction of a licensed registered professional nurse.

(3) "Activities of daily living" means basic caretaking or specialized caretaking.

(4) "Basic caretaking" means bathing, dressing, grooming, routine dental, hair and skin care, preparation of food for oral feeding, exercise excluding occupational therapy and physical therapy procedures, toileting including diapering and toilet training, handwashing, transfer and ambulation.

(5) "Specialized caretaking" means catheterization, ostomy care, preparation of food and tube feedings, care of damaged skin integrity, administering medications and performing other procedures requiring nursing judgment.

(6) "Handicapped student" means a person who is enrolled in any accredited public or non-public school education program who requires nursing procedures during regular school attendance hours. Handicapped student also includes exceptional children as defined in K.S.A. 1987 Supp. 72-962.

(7) "Nursing judgment" means the exercise of knowledge and discretion derived from the biological physical and behavioral sciences.

(8) "School setting" means any accredited public or non-public school environment during regular school attendance hours.

(9) "Supervision" means that the licensed registered professional nurse shall oversee the delegated task.

(10) "Medication" means any drug required by the Federal or State Food, Drug and Cosmetic Act to bear on its label the legend "caution: Federal law prohibits dispensing without prescription."

(c) In fulfilling the responsibilities for nursing care each school nurse shall:

(1) Serve as a health advocate for pupils;

(2) counsel and teach individuals, families and groups about health, illness and promote health maintenance;

(3) serve as a health consultant and as a resource to teachers and administrators serving pupils having health services needs during school attendance hours; and

(4) utilize theories, skills of communication and the teaching-learning process to increase the health, knowledge and functioning of the multidisciplinary education evaluation team as the strengths and weakness of pupils are assessed. The recommendations for appropriate educational placement shall be made from the team evaluation.

(d) The full utilization of the services of a licensed registered professional nurse may be supplemented by the delegation and supervision of selected nursing tasks to unlicensed personnel. (Authorized by K.S.A. 65-1229; implementing K.S.A. 65-1113 and K.S.A. 1987 Supp. 65-1124; effective, T-89-23, May 27, 1988; amended, T-60-9-12-88, Sept. 12, 1988; amended Feb. 13, 1989.)

(a) Attendant care services means those basic and ancillary services which enable an individual in need of in-home care to live in the individual's home and community rather than in an institution and to carry out functions of daily living, self-care and mobility.

...(d) "Health maintenance activities" include, but are not limited to, catheter irrigation;; administration of medications, enemas and suppositories; and wound care, if such activities in the opinion of the attending physician or licensed professional nurse may be performed by the individual if the individual were physically capable, and the procedure may be safely performed in the home.

Attempts to create another exemption for "home health" clients needing nursing services failed.

Professional Nursing Organization Activities

In 1981 & 1982 the Kansas State Nurses' Association conducted statewide forums to gather input on the development of a position statement on the use of unlicensed personnel. A formal position paper was adopted in September of 1983 that identifies specific guidelines for the Use of Unlicensed Personnel by Registered Nurses. (Attachment #2) This paper has specific language related to "delegation" and provides both direction and information to Registered Nurses seeking guidance on this issue in their daily practice.

In 1987 the National Council of State Board of Nursing adopted a statement entitled "Position Statement on Nursing Activities of Unlicensed Persons" and in 1990 they adopted a "Concept Paper on Delegation".

In 1989 the Tri-Council for Nursing issued a Statement on "Assistive Care Personnel". (Attachment #3)

The last formal action by the Kansas State Board of Nursing related to unlawful delegation was a letter addressed to the Commissioner of Education (Kansas) that demanded a response related to the unauthorized practice of nursing by unlicensed individuals in Kansas School Districts. (Attachment #4) This letter was the precipitating factor in the interdisciplinary task force that resulted in the N.P.A. exemptions (k) & (l).

Since 1985 there have been no formal disciplinary proceedings against a licensee for the inappropriate delegation of professional nursing under the "unprofessional conduct" regulation. (K.A.R. 60-3-110 (6)).

Testimony to the Senate Public Health and Welfare Committee

March 30, 1992

My name is Dana Kelly. I am a registered nurse (licensed in Kansas), married to a pediatrician, and the mother of two children, ages 24 and 16. Our 20 year old severely multiply handicapped son, Brogan, died in October. He lived at home and required total care.

I need to express my feelings about House Bill 2882.

From a parent's perspective, having a nurse give my son his medications and gastrostomy feedings when I was not with him is a lovely idea__but definitely not a practical idea. Brogan attended school at Topeka High School and was given medications by the teaching staff. Gastrostomy feedings were given by a nurse, even though I had addressed changing this practice with school district administration. We, as his parents, have felt very comfortable with having any person who was trained by us, giving his gastrostomy feedings. We taught Brogan's brother, Tim, to do the feedings when he was 11 years old. The gastrostomy feeding procedure is simple, and is much safer than trying to give fluids orally when a handicapped person may have difficulty with swallowing, choking, or aspirating fluid and/or feedings. When Brogan was receiving HCBS funding, the attendants we hired were taught to do the feedings and give his medications. They were not nurses, but they did an excellent and careful job of both.

I graduated from nursing school in 1964__back when there were no sophisticated gastrostomy buttons and tubes. I have never been unlicensed since then. I've worked for a number of years part-time in my husband's office. I have real difficulty understanding why a licensed care provider, such as Sheltered Living or Topeka Association for Retarded Citizens here in Topeka, needs to pay a nurse to pass medications to clients who are unable to take them by

Senate P. H. & W.
Attachment 3
3-30-92

themselves. There is a percentage of parents who walk into my husband's office every day who have limited capabilities to care for their children. Still, they have judgement to know when their kids need to see a doctor. The physician examines the sick child and gives the parents instructions about how to handle the illness at home, and often hands the parents a prescription. In doing so, he trusts them to give the medication as prescribed. Somehow, this system has worked for years. It really does not take out-of-the-ordinary intelligence to give medicine as a physician directs. I can understand that training in looking for side effects might be appropriate for the person giving medicine in a licensed care provider setting.

Since December, I have been working part-time for Sheltered Living doing in-home respite care for the severely handicapped. I also am hired to give medications to these clients while their families are away. I have helped from 6-9 a.m. at a new apartment for four severely multiply handicapped young men, giving morning care and passing medications for Sheltered Living. I also contract with TARC to give noon gastrostomy feedings. These jobs are done by a nurse at the present time in order to comply with our Kansas Nurse Practice Act. It is my sincere feeling that a nurse is not necessary to do any of these functions. I am enjoying being with Brogan's friends, but the jobs are requiring both Sheltered Living and TARC to spend extra dollars they shouldn't have to spend. Surely the monies spent here could be used to provide better services or to increase the low wages paid to the care attendants. I'm sure it doesn't surprise you to know that it is hard to find people who are interested in caring for this population, and the wage incentive is not enticing. These clients are more fragile than some of the rest of us__they need quality care attendants. Their needs are very elementary__adequate food, fluids, and appropriate medications are some of their basic needs.

I am the President Elect of the TARC Board of Directors. The board was recently forced to cut our 1992 budget because of decreases in amounts of work available for our workshop clients. Our philosophy has never been one of making money from our workshops, but our clients have added to our budget dollars by being very busy and wanting to be productive. TARC, as many other Kansas licensed care providers, does not need to have budget dollars drained unnecessarily because of client needs that can be provided by their regular staff.

About 6 years ago, we heard pharmacists from all over the country saying that the public (you and I) were not capable of managing over-the-counter decongestants and antihistamines, that only physicians should prescribe them. The federal laws were changed and __guess what__we showed the pharmacists that we indeed did have judgement and common sense enough to manage our own colds. Isn't it time now to allow our Kansas Nurse Practice Act to change so that our licensed care provider staff are able to pass medications and give gastrostomy feedings? Good judgement in handling these can be taught by nurses who are good delegators and teachers.

Thank you for listening and for caring. If I can answer any questions for you, please call me.

Sincerely,

Dana S. Kelly

Dana S. Kelly
430 Yorkshire Rd.
Topeka, Kansas 66606
913-272-0663



Kansas Association of Rehabilitation Facilities

Jayhawk Tower • 700 Jackson • Suite 212 • Topeka, Kansas 66603-3731
(913) 235-5103 • Fax (913) 235-0020

TO: Senator Roy Ehrlich, Chair
Senate Public Health & Welfare

FROM: Kansas Association of Rehabilitation Facilities

RE: HB 2882

DATE: March 30, 1992

X
agreement

My name is Yo Bestgen, Executive Director of the Kansas Association of Rehabilitation Facilities. I represent forty-one community providers serving children and adults with mental retardation and developmental disabilities.

The KARF supports HB 2882 and would request favorable action by the Senate Public Health and Welfare Committee.

Community providers serve special education graduates who are now moving into adult services. There already is in law the ability for staff of school districts to administer medications and to perform other nursing tasks with the supervision of a nurse. HB 2882 would allow that same level of service as the student moves into adult services. These adult services may include vocational and/or day services and community living alternatives.

Attached to this testimony is a copy of a written agreement of understanding. This agreement outlines the delegation of nursing tasks as discussed and agreed to by the Kansas Board of Nursing, Mental Health and Retardation Services, the Kansas Nurses Association and the Kansas Association of Rehabilitation Facilities. I would like to highlight parts of this agreement so that the Committee will understand the benefit to adults with developmental disabilities as they become integrated into our communities through community programs and so that it is clear as to the intent of Hb 2882.

I respectfully request passage of HB 2882 with a favorable recommendation by the Senate Public Health and Welfare Committee.

Thank you.

Senate P. Ehrlich
Attachment #4
3-30-92



JOAN FINNEY, GOVERNOR OF THE STATE OF KANSAS

**KANSAS DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES**

DONNA WHITEMAN, SECRETARY

**Mental Health & Retardation Services
Fifth Floor North
(913) 296-3773**

February 27, 1992

The Honorable Carol H. Sader, Chairperson
House Public Health & Welfare Committee
Kansas State Representative
State Capitol, Room 115-S
Topeka, Kansas 66612

Re: HB 2882 - An ACT concerning the board of nursing; amending
K.S.A. 1991 Supp. 65-1124 AND REPEALING THE EXISTING SECTIONS.

Dear Representative Sader,

The Kansas State Board of Nursing, the Division of Mental Health and Mental Retardation Services of the Kansas Department of Social and Rehabilitation Services, the Kansas State Nurses' Association and the Kansas Association of Rehabilitation Facilities support the passage of HB 2882 without amendment. The new (n) language allows the nursing profession, state agencies, community providers, and consumers of services to cooperate in the effective delivery of quality care in the least restrictive environment.

This letter reflects the understanding of the above parties that the proposed legislative change in HB 2882, which creates section (n) of K.S.A. 65-1124, codifies the responsibility of the licensed nursing professional to:

- I. Within the reasonable exercise of independent nursing judgment, "delegate" the performance of a nursing task. Independent nursing judgment permits and authorizes the licensed nurse to make the decision whether or not to delegate a particular activity.

- II. Exercise the responsibility of supervision. The responsibility for supervision requires that the registered professional nurse or the licensed practical nurse delineate, educate, and supervise the nursing tasks that unlicensed personnel may perform. The signatories of this letter concur that the following definition of supervision developed by the National Council of State Boards of Nursing and printed in the 1989 Concept Paper on Delegation, is the operational definition for the use of the word supervision in this proposed statutory change.

Provision of guidance by a qualified nurse for the accomplishment of a nursing task or activity with initial direction of the task or activity and periodic inspection of the actual act of accomplishing the task or activity. Total nursing care of an individual remains the responsibility and accountability of the nurse.

- III. Allow the performance of a nursing task with reasonable skill and safety by a person under the supervision of a nurse. **Performance of a nursing task may include the administration of medications.** Education and demonstrated competency would be the basis for assuring reasonable skill and safety.

Past legislative efforts to create exceptions for the delegation and delivery of nursing services resulted in sections (k), (l), and (m) of the K.S.A. 65-1124. Review of companion regulations and statutes to those sections (see attachments 1 and 2) reflects the framework of tasks subject to delegation to unlicensed personnel. **The administration of medications is specifically listed as a task that can be delegated under the existing guidelines specific to (k), (l), and (m).**

In the future, as the support systems for persons with disabilities grows in the community setting, the scope of nursing tasks which may be delegated will also continue to expand. The present legislative and regulatory framework provides direction to nursing professionals in the exercise of their professional nursing judgment and guidance to others as to the scope of tasks deemed appropriate for delegation.

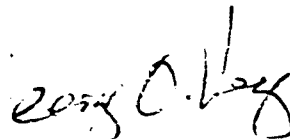
The Honorable Carol H. Sader
February 27, 1992
Page Three

The signatories concur that the exception to the Nurse Practice Act conferred in Section (n) is an essential component in the implementation of public policy that supports the efforts of persons with disabilities to live in their communities.

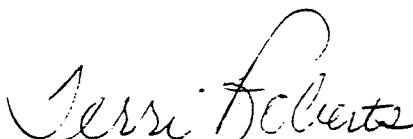
Sincerely,



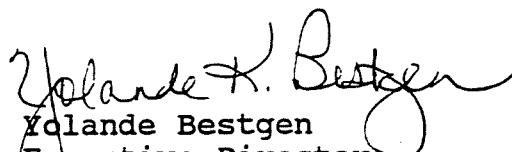
Patsy Johnson, R.N. M.S.N.
Executive Administrator,
Kansas State Board of
Nursing



George D. Vega,
Acting Commissioner,
Mental Health and
Retardation Services
Department of Social and
Rehabilitation Services



Terri Roberts, J.D. R.N.
Executive Director,
Kansas State Nurses' Association



Yolande Bestgen
Executive Director,
Kansas Association of
Rehabilitation Facilities



KANSAS FEDERATION OF LICENSED PRACTICAL NURSES, INC.

Affiliated with NATIONAL FEDERATION OF LICENSED PRACTICAL NURSES, INC.

933 Kansas Avenue Topeka, KS 66612. 913-354-1605

TESTIMONY PRESENTED ON HOUSE BILL 2882 AND HB 2883 presented by Elizabeth E. Taylor Legislative Consultant for KFLPN

Senate Public Health & Welfare Committee Honorable Senator Roy Ehrlich, Chair

HB 2882 - DELEGATION The policy decisions expressed in HB 2882 are ones which have been negotiated by the Kansas State Board of Nursing on which sit three LPN members. The KSBN has reviewed this topic during the past several months with all interested parties and all have agreed to the position you have presented before you in HB 2882. KFLPN has been a part of that negotiation and **we do support the language of HB 2882.**

X CAUTION ON EXPANSION OF DELEGATION LANGUAGE Because the language of HB 2882 has been agreed upon after considerable review by the interested nursing parties. The general position of the KFLPN on delegating further nursing procedures to non-nursing personnel strictly prohibits such delegation. Our concern is that not all Kansans will be provided with the same level of nursing care when further delineation of services exists without direct supervision by a licensed professional or practical nurse.

HB 2883 - FEE INCREASE POTENTIAL KFLPN has always wanted to be sure it supported its fair share of the cost of licensure of LPNs. However, the Kansas State Board of Nursing has indicated that its current balance of funds is high and that no increase is needed at this time. With existing high balances we are not sure of the need for HB 2883. Until such time as a fee increase is needed, **we oppose any increase in the maximum cap for nursing licensure fees.**

*Senate PH&W
Attachment #5
3-30-92*



STATE OF KANSAS

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

915 S.W. Harrison, Docking State Office Building, Topeka, Kansas 66612-1570

JOAN FINNEY, Governor

Mental Health & Retardation Services
Fifth Floor North
(913) 296-3561

March 27, 1992

The Honorable Roy M. Ehrlich, Chairman
Senate Committee on Public Health and Welfare
Statehouse, Room 138-N
Topeka, KS 66612

RE: Support for HB 2882

Dear Senator Ehrlich:

The Department of Social and Rehabilitation Services, Commission of Mental Health and Retardation Services fully supports HB 2882 and requests that the Senate Committee on Public Health and Welfare recommends passage of this bill to the Senate. This bill includes a list of nursing tasks which may lawfully be performed by persons who are not nurses and positive action by the Legislature is critical if Kansas is to appropriately meet the needs of its citizens with developmental disabilities in the communities.

It is common for some persons with disabilities to not know when to take their medication or to be unable to count out the proper number of pills specified on the prescription label. Current interpretations of statute require that a nurse perform this activity if the individual is unable. This bill will enable nurses, within the reasonable exercise of independent nursing judgment, to "delegate" the administration of medication to trained staff who are accompanying the individual during the many activities of daily living.

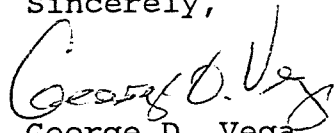
I call your attention to a letter of understanding that the Kansas State Board of Nursing, the Kansas State Nurses' Association, the Association of Rehabilitation Facilities and Mental Health and Retardation Services submitted to the House in support of this bill and which accompanies the bill. MH&RS appreciates this collaboration toward improving the quality of life of our developmentally disabled citizens and continues to support that agreement.

Senate P. How
Attachment #
6
3-30-92

The Honorable Roy M. Ehrlich, Chairman
March 27, 1992
Page Two

Thank you for your time and attention.

Sincerely,



George D. Vega
Acting Commissioner

GDV:DH:eb

cc: Secretary Whiteman
Terri Roberts
Patsy Johnson
Yolande Bestgen

Kansas State Board of Nursing

Landon State Office Building
900 S.W. Jackson, Rm. 551
Topeka, Kansas 66612-1230
913-296-4929



Patsy L. Johnson, R.N., M.N.
Executive Administrator
913-296-3068

TO: The Honorable Senator Roy Ehrlich, Chairperson and
Members of the Public Health & Welfare Committee

FROM: Patsy L. Johnson, R.N., M.N.
Executive Administrator
Kansas State Board of Nursing

DATE: March 30, 1992

RE: HB 2883

HB 2883 has been prepared to establish some new temporary permit categories and to set maximum fees that may be charged by the Board of Nursing. Establishment of the temporary permits has been undertaken to allow greater flexibility for a nurse, or advanced registered nurse practitioner, or licensed mental health technician to begin work while completing licensure requirements.

In Section 1, the fee structures for the advanced registered nurse practitioner (ARNP) and registered nurse anesthetist (RNA) have been reorganized so that these fees are included with the fees for registered professional and licensed practical nurses in K.S.A. 65-1118(a). This would place all the nursing fees in one statute and hopefully make it easier for everyone when reviewing fees. The fee sections in the ARNP and RNA statutes presently are written in narrative and difficult to understand. These narrative fee sections in the ARNP and RNA statutes have also been revoked as part of this statute change. (Page 2, lines 32-35 and page 3, lines 34-39).

The new categories of fees being proposed are temporary permits for applicants while completing continuing nursing education or other application requirements. With more temporary permits, the workload in the Board office may increase. When issuing temporary permits, there is more work due to multiple handling of the applications. Although not expected initially, there might be enough increase in workload to require minimum staffing increases or other restructuring, such as an update of the computer system to improve processing

Janette Pucci, R.N., M.S.N.
Education Specialist
296-3782

Diane Glynn, R.N., J.D.
Practice Specialist
296-3783

Patricia McKillip, R.N., M.N.
Education Specialist
296-3782

Senior P 290
Attach # 7
3-30-92

renewal and reinstatement fees, but had hoped to change the caps so the statutes would not have to be opened at a later date. This was proposed in order to save both the legislature and agency some work in the future.

X One change was overlooked, so a balloon has been prepared to add to section 2, a reinstatement fee for a continuing nursing education providership. The Board has just completed an extensive revision of the continuing nursing education provisions. In those revisions, the Board allows for reinstatement if a providership lapses or is withdrawn by the Board. Rather than charging just the renewal fee, a slightly larger fee is probably needed since more professional time is required to review the reinstatement application. The reinstatement cap suggested is at \$150.

In summary, several new temporary permits have been proposed in order for nurses to begin work while completing application requirements. Since the agency expenditures exceed revenues slightly, eventually some of the fees will have to be raised to fund the agency. Licensees should be helped by the changes.

The Board hopes that you will pass HB 2883 with the amendment that we have suggested.

Thank you. I will be glad to answer questions.

7-2

1 (b) The board may require that fees paid for any examination
 2 under the Kansas nurse practice act be paid directly to the exam-
 3 ination service by the person taking the examination.

4 Sec. 2. K.S.A. 1991 Supp. 65-1118a is hereby amended to read
 5 as follows: 65-1118a. (a) The board shall collect fees provided for in
 6 this act as fixed by the board, but not exceeding:

7	Application for accreditation — schools of nursing	\$1,000
8	Biennial renewal of accreditation — schools of nursing	500
9	Application for approval of continuing education providers	200
10	Annual fee for continuing education providers	75
11	Approval of single continuing education offerings	25 100
12	Consultation by request, not to exceed per day on site	400
13	Approval of individual courses	15

Reinstatement for continuing education provider \$150

14 (b) In addition to the above prescribed fees, consultants' travel
 15 expenses shall be charged to the person, firm, corporation or insti-
 16 tution requesting consultation services to be provided by the board.

17 Sec. 3. K.S.A. 65-1131 is hereby amended to read as follows:
 18 65-1131. (a) Upon application to the board by any professional nurse
 19 in this state and upon satisfaction of the standards and requirements
 20 established by the board under K.S.A. 65-1130 *and amendments*
 21 *thereto*, the board may issue a certificate of qualification to such
 22 applicant authorizing the applicant to perform the duties of an ad-
 23 vanced registered nurse practitioner as defined by the board under
 24 K.S.A. 65-1130 *and amendments thereto*. The An application to the
 25 board *for a certificate of qualification, for a certificate of qualifi-*
 26 *cation with temporary permit, for renewal of a certificate of qual-*
 27 *ification and for reinstatement of a certificate of qualification* shall
 28 be upon such form and contain such information as the board may
 29 require and shall be accompanied by a fee, to be established by
 30 rules and regulations adopted by the board, to assist in defraying
 31 the expenses in connection with the issuance of certificates of qual-
 32 ification as advanced registered nurse practitioners, ~~but the fee shall~~
 33 ~~not be less than \$30 nor more than \$50 for an original appli-~~
 34 ~~cation, not more than \$20 for the renewal of a certificate of~~
 35 ~~qualification as an advanced registered nurse practitioner in an~~
 36 ~~amount fixed by the board under K.S.A. 65-1118 and amendments~~
 37 ~~thereto~~. The executive administrator of the board shall remit all
 38 moneys received pursuant to this section to the state treasurer as
 39 provided by K.S.A. 74-1108 and amendments thereto.

40 (b) The board may grant a one-time temporary permit to practice
 41 as an advanced registered nurse practitioner for a period of not
 42 more than 180 days pending completion of the application for a
 43 certificate of qualification.

KSNA

the voice of Nursing in Kansas



FOR MORE INFORMATION CONTACT:

Terri Roberts, J.D., R.N.
Executive Director
Kansas State Nurses' Association
700 S.W. Jackson Suite 601
Topeka, Kansas 66603-3731
(913) 233-8638
March 30, 1992

H.B. 2883 BOARD OF NURSING FEES AND TEMPORARY PERMITS AND AUTHORIZATIONS

Chairperson Ehrlich, and members of the Senate Public Health and Welfare Committee my name is Terri Roberts J.D., R.N. and I am currently the Executive Director of the Kansas State Nurses' Association and am here today representing KSNA.

The bill before you today has many elements that will affect the more than 24,000 Registered Nurses in Kansas. The KSNA Board of Directors and more than twenty District Association legislative chairpersons have reviewed the proposed policy changes contained within this bill. We are supportive of this bill in it's House amended version.

X We support the establishment of the **inactive license** for those nurses who choose to not be active clinically but have a desire to maintain the identity of being a nurse. These inactive licensees will not be exempt from the continuing nursing education requirements that registered nurses are required to obtain should they choose to return to licensure status. The proposed fee for the inactive license is \$20 and is minimal.

X The Board of Nursing is also proposing the establishment of a new fee category entitled **Application for reinstatement of licenses with temporary permit for \$100**. This would enable the Board of Nursing to permit nurses to work under a temporary permit while the potential licensee completes the necessary continuing education requirements or other documentation needed to reinstate their license that has lapsed. There have been situations in which licensees have both intentionally and unintentionally failed to obtain the necessary 30 hours of continuing education

Kansas State Nurses' Association Constituent of The American Nurses Association

700 S.W. Jackson, Suite 601 • Topeka, Kansas 66603-3731 • (913) 233-8638 • FAX (913) 233-5222
Michele Hinds, M.N., R.N.—President • Terri Roberts, J.D., R.N.—Executive Director

Senate P. #510

Attach #8
3 30-92

to renew their licenses. Their licenses lapse and until they get the necessary hours to submit for continuing education they have been unlicensed and cannot legally practice. This has been problematic, especially in the rural areas where access to continuing nursing education is not as readily available as the urban areas. Licensed nurses become unlicensed and cannot practice until their continuing education is complete. Some licensees have continued to practice without valid licensure status and this too has created problems for the Board of Nursing in their disciplinary role. This new category will be a positive step in facilitating the reinstatement process.

Advanced Registered Nurse Practitioners coming to Kansas from other states have experienced time delays in the processing of their ARNP applications. The proposed change to create a fee and process for a certificate of qualification with temporary permit for ARNP's would allow potential ARNP's to practice during the period in which their credentials and documentation are being formally reviewed. In light of the **voluntary** nature of ARNP status for registered nurses practicing in advanced practice roles, the creation of this process will facilitate the recruitment, employment and placement of ARNP's. The Kansas Essential Access Community Hospital (EACH Concept) and Regional Primary Care Hospital state initiative will increase the demand for ARNP-Nurse Practitioners.

There were three specific changes that were proposed in HB 2883 that we did not support and those were amended in the House Public Health and Welfare Committee.

Those were:

The creation of a \$15 fee for Individual Course Approvals for CE courses.

Raising RN/LPN renewal fee cap to \$60 and reinstatement from \$50 to \$75.

The creation of the new fee for Approval of Individual Courses {ICA's} (Page 2, line 12) would require licensees to pay up to \$15.00 to have courses that are not provided by a current Kansas State Board of Nursing approved provider of continuing nursing education reviewed by the Board of Nursing. This process, which has been in place for sixteen years, since the inception of mandatory continuing education amounts to approximately twenty-five programs submitted per week for the Boards review. Some of these programs are repetitive, and other licensees have already submitted a Individual Course Approval Form for the program and therefore the complete review process is unnecessary. **The licensees currently pay \$40.00 for biennial renewal and for this fee they should be entitled to review of their ICA's submitted.**

We believe that this fee, would deter nurses from selecting CE programs that meet their learning needs in lieu of those that happen to have been provided by one of the "approved providers" of the Kansas State Board of Nursing.

The nurses in psychiatric/mental health nursing are the group of RN's that most frequently utilize this service due to the multi-disciplinary nature of the continuing education programs they choose to attend. The other category of licensees that use the ICA process are LMHT's. 10 % of the ICA's are by LMHT's, whereas only 3% of the licensees of the Board are LMHT's.

The fee cap increases proposed for RN/LPN biennial renewal (from the current \$40.00 to \$60.00) and for reinstatement (from the current \$50.00 to \$75.00) is unnecessary at this time. While we believe that the fee agency needs to be adequately funded through fee revenue, the current Fee Fund Balance is the largest it has ever been, approximately \$360,000. The annual expenses of the agency are approximately \$720,000. In January of 1989 the Board of Nursing raised the renewal fee from \$25.00 to \$40.00, which at that time was a 65% increase. The reason for the current fee fund balance being so high is the overall gain in revenues is that the two year cycle of licensee renewals has been completed.

YEAR	KSNB FEE FUND BALANCE	PERCENT OF INCREASE
1988	\$151,042	
1989	\$258,707	(41%) increase
1990	\$326,121	(20%) increase
1991	\$351,366	(7%) increase

NOTE: The 65% fee increase went into effect January 1, 1989.

Thank you for the opportunity to speak and we hope you will support the amended version of HB 2883.

testimony 92
hb2883

Kansas State Board of Nursing

Landon State Office Building
900 S.W. Jackson, Rm. 551
Topeka, Kansas 66612-1230
913-296-4929



Patsy L. Johnson, R.N., M.N.
Executive Administrator
913-296-3068

To: The Honorable Senator Roy Ehrlich, Chairperson and
Members of the Public Health & Welfare Committee

From: Patsy Johnson, R.N., M.N.
Executive Administrator
Kansas State Board of Nursing

Date: March 30, 1992

Re: HB 3070

Thank you for allowing me to speak on HB 3070. In addition to some revisions in the language suggested by the Revisor of Statutes, the Board had several other changes which will assist us in planning for the future. The first change in K.S.A. 65-1115(b)(1) (page 1, lines 36, 37) and K.S.A. 65-1116(B)(1) (page 3, line 3, 4) is to remove the word "written" in conjunction with the licensure examination for professional and practical nurses. This change was suggested as a legal clarification from the attorney general's office. In the next five years, the national licensure examination will be administered by computer rather than the regular pencil and paper examination. The change in language will prevent any possible legal problems over the computer examination.

There are two changes proposed for the licensed mental health technician (LMHT) statutes. Although the reason is not quite understood by the Board, administration of tube feedings by LMHT's was prohibited in K.S.A. 65-4202(b)(2) (page 4, lines 10-15). The Board does not feel there should be any restriction of this activity for LMHT's and wishes this restriction removed. The procedure will be taught in the educational programs again.

There has not been a need for a 60-day permit for the LMHT since LMHT's do not endorse into the state but have to take the Kansas licensure examination. With the provision to allow a 60-day permit while a licensee completes continuing education requirements for reinstatement, then a statute provision for the 60-day permit is needed (page 5, line 9-11).

Janette Pucci, R.N., M.S.N.
Education Specialist
296-3782

Diane Glynn, R.N., J.D.
Practice Specialist
296-3783

Senate # How
Attach # 9
3-30-92
Patricia McKillip, R.N., M.N.
Education Specialist
296-3782

X
New Section 6 (page 5, line 39) provides for an administrative fine to be assessed in some disciplinary cases. With the caseload up from 40 to 400 complaints per year in the last four years, new procedures are being researched and implemented in order to process the cases in the smoothest way and shortest time possible. Since other agencies use administrative fines, the Board felt this method could be utilized by this agency as well. An example of when an administrative fine might be imposed is unlicensed practice. A nurse or mental health technician lets a license lapse and then continues to practice unlicensed, sometimes knowingly, but often unknowingly. There have been 57 cases this fiscal year. The licensee usually admits to the unlicensed practice when contacted. In these cases, the person would acknowledge the infraction, pay the fine, and complete the reinstatement procedure. If the person did not want to follow this procedure, then the licensee would have the right to hearing. The use of an administrative fine would not be used in lieu of suspension or revocation when the case is of a more serious nature in which there is a safety factor to the public. It is hoped this will decrease time periods that licensees are without licenses due to waiting for committee or hearing times.

New Section 7 (page 6, line 9) which dealt with investigation practices has been amended out of the bill. Although we believe some additional language needs to be added, we will work on it for next year.

X
The Board has one request regarding HB 3070. Because of the need for the administrative fines, we wish HB 3070 be effective upon publication in the Kansas Register. With the increase of unlicensed practice, implementation of the fines would allow some nurse to get back to work a little quicker.

I hope you pass HB 3070 out of committee favorably.

I will be glad to answer questions.

Thank you.

PLJ:sb

9.2

FOR MORE INFORMATION CONTACT:

Terri Roberts, J.D., R.N.
Executive Director
Kansas State Nurses' Association
700 S.W. Jackson Suite 601
Topeka, Kansas 66603-3731
(913) 233-8638
March 30, 1992

**HB 3070 ACT CONCERNING GRANTING THE BOARD OF NURSING
AUTHORITY TO IMPOSE ADMINISTRATIVE FINES;
CONCERNING INVESTIGATIONS AND PROCEEDINGS CONDUCTED BY THE
BOARD.**

Chairperson Ehrlich and members of the Senate Public Health and Welfare Committee, my name is Terri Roberts and I am the Executive Director of the Kansas State Nurses' Association.

The Kansas State Nurses' Association supports the changes in HB 3070 that would give flexibility to the Kansas State Board of Nursing to offer computerized testing for purposes of licensure.

We are very excited that the National Council of State Boards of Nursing and the Board of Nursing are proceeding with the development of computerized testing for Schools of Nursing graduates.

The Administrative Fines being proposed in new Section 6 (line 38, page 5) will provide an alternative for the Board to use when non-intentional technical violations occur to the Nurse Practice Act. Again, this expands the limited list of options revocation, limitation and suspension now available to the Board. We support this new language.

We also were supportive of New Section 7 on (line 8, page 6) which mimics language in the current Healing Arts Act that would give greater flexibility to the Board of Nursing investigations and proceedings conducted by the Board. Unfortunately the House Public Health and Welfare Committee deleted this section of the bill because they indicated they did not hear compelling testimony.

Kansas State Nurses' Association Constituent of The American Nurses Association

700 S.W. Jackson, Suite 601 • Topeka, Kansas 66603-3731 • (913) 233-8638 • FAX (913) 233-5222
Michele Hinds, M.N., R.N.—President • Terri Roberts, J.D., R.N.—Executive Director

Sen. Ehrlich
Attach #10
3-30-92

Kansas State Board of Nursing

Landon State Office Building
900 S.W. Jackson, Rm. 551
Topeka, Kansas 66612-1230
913-296-4929



Patsy L. Johnson, R.N., M.N.
Executive Administrator
913-296-3068

To: The Honorable Senator Roy Ehrlich, Chairperson
and Members of the Public Health & Welfare Committee

From: Patsy L. Johnson, R.N., M.N.
Executive Administrator
Kansas State Board of Nursing

Date: March 30, 1992

Re: HB 3071

Thank you for allowing me to testify to HB 3071 on behalf of the Board of Nursing. The grounds for disciplinary action has been updated for all Board of Nursing licensees in HB 3071. The disciplinary action section for registered nurse anesthetists has been moved into K.S.A. 65-1120 (a) so all nurses are covered in this part of the statute (page 1, line 21).

K.S.A. 65-1120 for professional and practical nurses and K.S.A. 65-4209 for licensed mental health technicians have been revised so that both statutes are similar in language. A new action "publicly censure" has been added to both statutes as another method that can be utilized following hearing. A limitation on the LMHT's license was also added (page 3, line 29). The language for habitually intemperate in the use of alcohol and addicted to the use of habit forming drugs has been revised to reflect the language used in the risk management laws K.S.A. 65-4924(a) (page 1, lines 30-34). We are not opposed to the amendment that was made in this section.

A new section has been added so that action may be taken on a practical nurse's license if certain intravenous therapies (I.V.) are performed. Over the last two years, the Board office has had many, many telephone inquires as to certification of LPN's for I.V. therapy. Since there is no certification process required by the Board, there have been many concerns with this expansion of LPN practice. The Department of Education, several nursing organizations, and the Board have met to establish guidelines for an I.V. therapy curriculum. Community colleges and vocational schools must get approval for I.V. therapy courses through the Department of Education.

Janette Pucci, R.N., M.S.N.
Education Specialist
296-3782

Diane Glynn, R.N., J.D.
Practice Specialist
296-3783

Patricia McKillip, R.N., M.N.
Education Specialist
296-3782

Separate P. Hill
Attached 11
3-30-92

The curriculum is now being sent to those who are requesting it.

The Board convened a task force to develop language for a restriction, but differences of opinion still exist. Although the Board is in agreement to the amendment (page 2, lines 5-15), restriction of specific drugs through rule and regulation would provide more flexibility. With the constant changes in health care delivery, it is believed that within a short span of time, additional legislation will be requested to address the medication restrictions.

In summary, some slight additions have been made to the disciplinary language and restrictions placed on I.V. therapy for LPN's. We have no opposition to the amendments that have been proposed.

I will be glad to answer any questions.

Thank you.

PLJ:sb

11-2