Approved: February 7, 1995

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Carlos Mayans at 1:30 p.m. on February 2, 1995 in Room 423-S of the State Capitol.

All members were present.

Committee staff present: Emalene Correll, Legislative Research Department
Bill Wolff, Legislative Research Department
Norman Furse, Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee:
Steve Kearney, Kansas Physical Therapists Association
Carolyn Bloom, Physical Therapist
Mack Smith, Executive Secretary, Kansas Board of Mortuary Arts
Pamela Scott, Kansas Funeral Directors Association
Lawrence T. Buening, Jr., Executive Director, Kansas Board of Healing Arts
Debbie Folkerts, ARNP, Manhattan
Charlotte Peake, ARNP, Belleville
Jim Mellor, ARNP, Osage
Joseph Conroy, ARNP, Emporia
Tim Lord, ARNP, Norwich
Gays (Jessie) Skillen, RN, Norwich
Paul Klotz, Association of Community Mental Health Centers of Kansas
Gordon Kuntz, High Plains Mental Health Center, Hays
Tom Hitchcock, Executive Secretary, Kansas Board of Pharmacy
Dr. Jesse C. Haggerty, Kansas Academy of Family Physicians
Jerry Slaughter, Executive Director, Kansas Medical Society
Harold Riehm, Executive Director, Kansas Association of Osteopathic Medicine
Helen Stephens, Kansas Academy of Physicians Assistants

Others attending: See Guest List, Attachment 1.

The minutes of the meeting held on January 31, 1995, were approved.

Representative Morrison announced that the Subcommittee on **HB 2004** (chiropractors authorized to perform health assessments of school pupils) will meet on Monday, February 6, 1995, at 8:00 a.m., in Room 522-S State Capitol. Also, the subcommittee will meet on Wednesday, February 8, 1995, at 8:00 a.m., in Room 531-N State Capitol.

HB 2127 - Health care provider insurance availability act, physical therapists

Steve Kearney, Legislative Counsel for the Kansas Physical Therapy Association, presented testimony in support of **HB 2127**, which allows physical therapists to stop contributing to the Health Care Stabilization Fund and to withdraw from the Fund. He also provided information from Rita Noll, Senior Attorney with the Stabilization Fund, concerning the Fund's experience with physical therapists (see Attachment 2).

Carolyn Bloom, who has served on the board of the Association and is a physical therapist, testified in support of **HB 2127**, stating that physical therapists are able to purchase higher levels of insurance coverage from private insurance companies at a cost less than the combined private basic insurance premium plus the Fund's coverage premium (see Attachment 3).

HB 2163 - Mortuary arts license fees and unlawful acts and penalties

Mack Smith, Executive Secretary of the Kansas State Board of Mortuary Arts, presented testimony in support

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.

of **HB 2163** and recommended that the bill be amended to make it unlawful for any person to operate a funeral establishment or a branch establishment who is not licensed by the Board (see Attachment 4).

Pamela Scott, Executive Director of the Kansas Funeral Directors and Embalmers Association, Inc., testified in support of **HB 2163** and urged its adoption (see Attachment 5).

Representative Freeborn asked about the provisions shown on page 4, line 18, concerning applicants who have been convicted of a felony or any offense involving moral turpitude, and the protocol to assure rehabilitation. Mr. Smith replied that the Board handles each case on an individual basis, depending on the events that have occurred.

Representative Landwehr said that in reading section 6, she assumes unlicensed persons have made attempts to operate funeral homes. Mr. Smith said that is true. Representative Henry asked if this had caused any operators to be put out of business. Mr. Smith said none whatsoever; that this bill attempt is to clarify the licensure law.

Emalene Correll asked if continuing education units would be required to be pre-approved by the Board. Mr. Smith replied not necessarily as approval can be requested 30 days after the program. Ms. Correll asked if continuing education can be attained through other means, such as tapes. Mr. Smith said it was possible but it would need approval of the Board.

Chairperson Mayans questioned the language on page 2, line 22, regarding the definition of a "funeral establishment," and asked if lying in state in churches would require churches to be licensed. Mr. Smith answered that the language "arranged and conducted" eliminated churches since funerals are not arranged at churches. Chairperson Mayans also asked about the estimated fiscal impact, and Mr. Smith replied that it was based on the amount of fees received in the last fiscal year; and estimates that if $10 is charged for each continuing education license application and $20 for each sponsor application, a total of $6,000 would be generated based on 200 applications in each category.

HB 2194 - Advanced registered nurse practitioners authorized to prescribe drugs

Lawrence Buening, Jr., Executive Director of the Kansas Board of Healing Arts, presented testimony concerning **HB 2194**, in which he described the responsibilities of the Board. He expressed serious reservations to **HB 2194** and the effects it would have on the delivery of health care to the citizens of the state. He also described the law which defines persons deemed to be engaged in the practice of medicine and surgery, by quoting K.S.A. 65-2869, which definition includes "persons who prescribe, recommend or furnish medicine or drugs..." It is Mr. Buening's opinion that **HB 2194** gives ARNP's the ability to practice medicine and surgery without being licensed therefor. (See full testimony, Attachment 6).

Emalene Correll stated that ARNP's are registered as professionals, who have additional education to gain the Board of Nursing's Certificate on ARNP. Those nurses may order, prescribe in certain circumstances and transmit prescription orders. The same is true for Physician Assistants.

Chairperson Mayans stated the committee would hear the proponents on **HB 2194**, and that questions would come after all of them had testified.

Debbie Folkerts, ARNP of Manhattan, testified in support of **HB 2194** (see Attachment 7).

Charlotte Peake, ARNP of Belleville, testified in support of **HB 2194** (see Attachment 8).

Jim Mellor, Family Nurse Practitioner and ARNP of Osage City, testified in support of **HB 2194** and listed several reasons for authorizing prescriptive authority to ARNP's (see Attachment 9).

Joseph P. Conroy, Certified Nurse Anesthetist of Emporia, presented testimony in support of **HB 2194**. He pointed out that in 1992, the Kansas Department of Health and Environment amended the Hospital Rules and Regulations for anesthesia services in K.A.R. 28-4-17a(c) whereby physician supervision language was removed for nurse anesthetists (see Attachment 10).

Timothy J. Lord, Family Nurse Practitioner from Wichita, presented testimony in support of **HB 2194**. He described his educational background and those he serves practicing primary health care in rural Kansas. He outlined the problems he and other ARNP's have encountered in obtaining sponsorship of a practicing physician. He noted ARNP colleagues who pay upwards of $3,000 monthly to physicians for the right to practice according to present law. (See full testimony on Attachment 11).

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.

Jessie Skillen, member of the Silver Haired Legislature, testified in support of **HB 2194** (see Attachment 12).

Paul Klotz, representing the Association of Community Mental Health Centers of Kansas added his support of **HB 2194**. He introduced Gordon Kuntz of the High Plains Mental Health Center from Hays to speak for the Association. Mr. Kuntz testified that he believes it is critical to pass **HB 2194** to allow ARNP's to have independent authority (see Attachment 13).

Written testimony in support of **HB 2194** by Carla Lee, Director of the Family Nurse Practitioners Program at Fort Hays State University, was distributed (see Attachment 14). Also distributed was written testimony of Patsy L. Johnson, Executive Administrator of the Kansas State Board of Nursing, in support of **HB 2194** (see Attachment 15).

Chairperson Mayans then opened the meeting for questions of the proponents.

Representative O'Connor asked Mr. Buening about the testimony that some physicians were being paid $3,000 or so a month to allow ARNP's to use prescriptive authority. Mr. Buening stated that the Board of Nursing licenses the ARNP's and he did not know of any situation where a physician is being hired. He said physicians have overall responsibility and assume liability for the actions of ARNP's.

Representative Hutchins asked a similar question of Charlotte Peake concerning the liability insurance carried by ARNP's. Ms. Peake said that such insurance coverage may not be required but the ARNP's do carry liability insurance.

Representative Rutledge asked Tim Lord what types of drugs would be prescribed under this bill. Mr. Lord said all scheduled drugs. Representative Rutledge and Representative Freeborn pursued the issue of ARNP's paying $3,000 to physicians for prescriptive rights. Mr. Lord said that competitive forces causes this saying that the ARNP charge in a rural clinic is $29 per hour, while in Wichita it is $150 to see a physician. Giving ARNP's prescriptive authority will allow them to be competitive in metropolitan areas like Wichita, Kansas City and Topeka.

Representative Gilmore asked if nurse practitioners would have full prescriptive authority for RU 486? Ms. Peake said she was not certain that it was legal in Kansas; but if the law made it legal, then it could be prescribed under this bill.

Chairperson Mayans then introduced Tom Hitchcock, Executive Secretary/Director of the Kansas State Board of Pharmacy. Mr. Hitchcock testified in opposition to **HB 2194**, stating that an ARNP should not be allowed to prescribe independently or be included in the definition of a practitioner (see testimony, Attachment 16).

Dr. Jesse C. Haggerty, representing the Kansas Academy of Family Physicians, testified in opposition to **HB 2194**, expressing significant concerns about the bill (see Attachment 17).

Jerry Slaughter, Executive Director of the Kansas Medical Society, testified in opposition to **HB 2194** (see Attachment 18), stating that giving ARNP's prescriptive authority is offensive. He said the law should be reviewed. Giving nurses this right was not intended. If nurses want to compete with physicians, they should go to medical school. He said we have not had a showing that nurse practitioners all are competent. The Society urges the committee to reject **HB 2194**.

Harold Riehm, Executive Director of the Kansas Association of Osteopathic Medicine, presented testimony in opposition to **HB 2194**, stating that granting ARNP's prescriptive authority will prove disruptive to the health care system (see Attachment 19). Mr. Riehm said he has concerns with the allegation that there is fraud in the present system and, if so, it should be brought forth and investigated.

Helen Stephens, representing the Kansas Academy of Physician Assistants, presented the testimony prepared by Steve Asbury, Co-Chair of the Academy's Legislation Committee, in opposition to **HB 2194** (see Attachment 20). Ms. Stephens said she was not aware of any assistants who pay for protocols, but she will verify.

Chairperson Mayans opened the meeting to questions of those who spoke in opposition. Representative Goodwin asked Mr. Slaughter if he had any knowledge of physicians charging nurse practitioners for prescriptive rights. Mr. Slaughter replied that he did not know of any such situation, but if there was proof of such activity it should be brought forward and investigated. He said the law clearly places liability on the supervising physician, except for nurse anesthetists.

Representative Goodwin expressed concerns in the case of misdiagnosis and incorrect drug prescriptions. Mr. Slaughter stated it is the obligation of the Legislature to set high standards--that this is a quality issue. He said if you are certain ARNP's have the training, perhaps the bill would be appropriate. But if you have concerns, you have the responsibility to get the questions answered first.

Representative Landwehr asked Mr. Hitchcock the difference between a prescription only drug and controlled substances. He replied that those prescribing controlled substances must be registered with the federal agency. If this bill is passed, ARNP's would be free to register with DEA and if given federal authority, could then prescribe controlled substances.

Representative Henry asked Mr. Hitchcock about the 36 states that have given nurse practitioners some of this authority. Mr. Hitchcock replied that there are many differences between the states in the authority granted and that he will get the information he has on the subject and share it with the committee.

Representative Freeborn asked if patients of nurse practitioners know the name of the supervising physician. Mr. Lord replied that they may not be aware of the physician and may be surprised to learn the name when they see it on a prescription. He said he doesn't always tell the patient about the physician. Ms. Stephens said she did not believe that was true with Physician Assistants as they generally display a placque with that information on it.

Chairperson Mayans then announced that at the next meeting the committee may act on some of the bills heard today.

The meeting was adjourned at 3:05 p.m.

The next meeting is scheduled for February 6, 1995.

HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST

DATE: FEBRUARY 2, 1995

NAME	REPRESENTING
Penny Sue Johnson	The Ks Coalition, Inc / KAPs Adv. Council
Monica Schribmeir	KSNA
Tom Hitchcock	Bd. of Pharmacy
Pam Scott	Ks Funeral Directors Assn
Stacey Empson	Hein, Ebert & Weir
James Kumi	student W.U.
Janette Pucci	KSBN
GARY Robbins	Ks Optometric assn
Pat McKillip	KSBN
Donna Byerley	KSBN
Stephanie Caldwell	KSBN
Pat Johnson	KSBN
Janice Jones	tax payer
RUTH King	TAX PAYER
Chip Wheelen	KS Medical Soc.
Michelle Peterson	Ks. Gov. Consulting
Jim Sperry	KATS
Mike Todd	Ks. Optometric Assoc.
Ron Fiegel	KS Optometric Assoc.
Cindy Haswold	Baker University
Mack Smith	Mortuary Arts

HOUSE H&HS COMMITTEE
2-2-1995
Attachment 1-1

Donna Schroeweis	self
Cheryl Dallam	self
Allison Peterson	KANSAS MEDICAL SOCIETY
Kathleen Bushey	self
Helen Stephens	Ks. Academy of Phys. Assts.
Larry Buening	Bd of Healing Arts
Marya P. Schmidt	ARNP.

HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST

DATE: FEBRUARY 2, 1995

NAME	REPRESENTING
Tom Wilder	Kan Dept of Insurance
Sue Baxter	Bd of Pharmacy
Tom Hitchcock	Bd of Pharmacy
Paul M. Klotz	Assoc. of CMHC's Ks, Inc.
GORDON D. KUNTZ	HIGH PLAINS MENTAL HEATH CTN.
Bob Wunsch	KUMC
STEVE KEARNEY	KPTA
Carolyn Bloom	KPTA
Jessie Skillen	Kingman Co (citizen)
Sandy Strand	KINH
Tim LXXD	Kingman Comm. Hosp
Charlotte Peake	KSNA
JOSEPH CONROY	KANA
Jim Muller	KSNA
Jesse Haggerty, MD PhD	Kansas Acad. Family Physicians
[illegible]	" " " " . Dr 4 a Day
JERRY SLAUGHTER	KMS
Bob Hayes	HCSF

Date: February 2, 1995

To: House Committee on Health and Human Services

From: Steve Kearney, Legislative Counsel for the Kansas Physical Therapy Association

Re: House Bill 2127

Chairman Mayans and members of the House Health and Human Services committee:

Thank you for the opportunity to appear before you today on behalf of the Kansas Physical Therapy Association in support of House bill 2127. House bill 2127 would remove the Physical Therapists from the Health Care Stabilization Fund.

During the summer months the Health Care Stabilization Fund Board passed a motion no longer requiring the Physical Therapist's participation in the Fund. A copy of those minutes are attached.

I have also attached a letter from Rita Noll, Senior Attorney with the Health Care Stabilization Fund, dated December 14, 1994 that more fully explains this issue. I have also attached a chart supplied by Ms. Noll which shows that the Physical Therapists have had no claims filed since the inception of this fund in 1976. The Physical Therapists contribute only .24% of the surcharge for the Fund.

This measure allows the Physical Therapists to stop contributing to the Fund and to withdraw from the Fund. Others have previously withdrawn from the Fund under identical provisions. I respectfully request your favorable consideration of this measure.

Thank you for the opportunity to appear before you today.

STATE OF KANSAS

KANSAS INSURANCE DEPARTMENT

420 S.W. 9th
Topeka 66612-1678 913-296-3071

1-800-432-2484
Consumer Assistance
Division calls only

RON TODD
Commissioner

December 14, 1994

MR STEVE KEARNEY
P O BOX 2428
TOPEKA KS 66601

RE: Physical Therapists

Dear Mr. Kearney:

Finally I provide to you the information you had requested regarding physical therapists.

Enclosed are copies of minutes of the Health Care Stabilization Fund Board of Governors meetings held July 28th and August 25th during which removing physical therapists from the Fund was discussed. Also enclosed is a sheet that shows how much has been paid from the Fund for each health care provider group. No money has been paid out on behalf of PTs. Of the total amount of surcharge moneys paid into the Fund, 0.24% of that amount has been paid by physical therapists.

You also inquired about the Fund's claims experience regarding physical therapists. Since the inception of the Fund in 1976, the Fund has been notified of seven law suits naming eight physical therapists as defendants (one suit named two PTs). In every case the physical therapist was not the only defendant, also named were other health care providers such as a hospital or M.D.

The Fund has never paid any money, or incurred any expenses, on behalf of a physical therapist. The Fund has been notified of only one instance (of the eight claims made against PTs) in which a primary insurance carrier paid money to settle a claim.

I hope this information is helpful. Let me know if we can be of further assistance.

Very truly yours,

Rita

Rita L. Noll, Senior Attorney
Health Care Stabilization Fund

RLN:st
LE2720
Enclosures

8/24/94 Review of HCSF Paid Losses and Surcharge Payments by Type of Provider

AGENCY	PROVIDER TYPE	SETTLEMENTS	INTEREST PAID	EXPENSES PAID	TOTAL LOSSES	% of Paid Losses	% of Surcharge Paid-In
110	M.D.	$144,603,145	$6,002,701	$14,059,625	$164,665,471	77.08%	69.02%
120	D.O.	$7,661,437	$0	$1,165,226	$8,826,663	4.13%	4.04%
130	Chiropractors	$2,434,174	$0	$74,110	$2,508,284	1.17%	1.31%
140	Podiatrists	$58,473	$0	$39,471	$97,944	0.05%	0.37%
→ 150	Reg. Phys. Ther.	$0	$0	$0	$0	0.00%	0.24%
160	Dentist-Anesthet.	$335,611		$52,803	$188,414	0.09%	0.68%
200	HMO	$0	$0	$2,958	$2,958	0.00%	0.67%
All 300's	*Hospitals & Facilities*	*$17,531,075*	*$1,523,893*	*$1,285,031*	*$20,339,999*	*9.52%*	*17.42%*
400	Pharmacists	$150,000	$0	$2,012	$152,012	0.07%	0.25%
500	Optometrists	$95,000	$0	$13,177	$108,177	0.05%	0.18%
600	Nurse Anesthetists	$3,378,648	$1,296,701	$519,163	$5,194,512	2.43%	2.36%
700	Prof. Corps.	$5,576,883	$401,743	$574,765	$6,553,391	3.07%	4.06%
710	Not-for-Profit Corps.	$2,614,597	$44,952	$229,950	$2,889,499	1.35%	See Prof. Corps.
800	Partnerships	$1,457,544	$584,461	$52,501	$2,094,506	0.98%	See Prof. Corps.
999	Misc.	$0	$0	$898	$898	0.00%	
					$213,622,728		

3 - 2

MINUTES OF THE AUGUST 25, 1994 MEETING
OF THE BOARD OF GOVERNORS
OF THE
HEALTH CARE STABILIZATION FUND

The August 25, 1994 meeting of the Board of Governors of the Health Care Stabilization Fund was called to order at 1:06 p.m., chaired by Ron Todd, Commissioner of Insurance.

The following members were in attendance: Ms. Sara Ullman, Ms. Wilma Naethe, Dr. James Lueger, Ms. Carolyn Bloom, Mr. Robert Ohlen, Dr. George Learned, Dr. Ross Shook, Dr. John Young and Dr. John Hill. Present from the Fund were Claire McCurdy, Stacy Moorhead, Bill Wempe, Bob Hayes and Rita Noll. Stacie Tuell, Secretary for the Fund, took the minutes of the meeting.

The minutes of the July 28, 1994, meeting were approved. (Note: a correction in attendance has since been made: Dr. James Lueger was not present, Dr. George Learned was present.)

Rita notified the Board that all requests for increased coverage and tail coverage exemption from the July 28, 1994, meeting were given final approval after the review by Dr. John Hill.

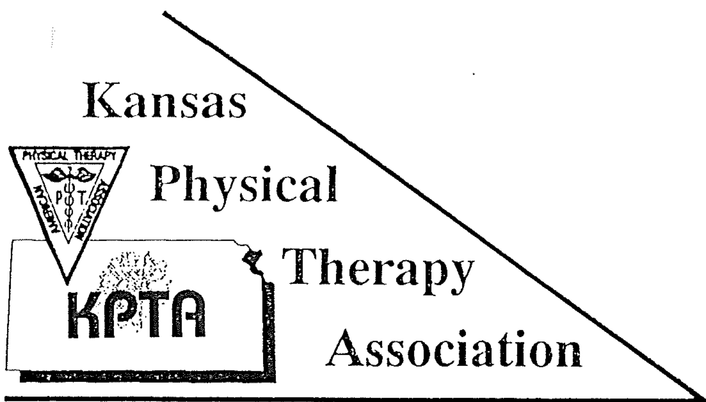
As a matter of new business, the motion presented by Carolyn Bloom at the July 28, 1994, meeting regarding registered physical therapists being changed from their present health care provider status under the law (i.e. being removed from the Health Care Stabilization Fund), as was done with the optometrists and pharmacists in 1991 was discussed by the Board. Bob Hayes presented Board members with his report of Health Care Stabilization Fund paid losses and surcharge payments by registered physical therapists in comparison to all other health care providers. Information presented in his report included provider type, settlement amounts, interest paid, expenses paid, total losses, percentage of paid losses and percentage of surcharge paid-in. After discussion and review, the Board moved to support the motion by the registered physical therapists to no longer be subject to the mandatory professional liability coverage requirements and participation of the Health Care Stabilization Fund. This motion was seconded and passed.

Next on the agenda, Rita presented eight requests for increased Fund coverage. Motions were made, seconded, and passed on the following health care providers: Alva E. Bowyer, R.N.A., Geary Anesthesia Associates, P.A., Cecelia A. Griffith, R.P.T., Lawrence Clinical Laboratory, Chartered, Paul W. Murphy, M.D., Laurance W. Price, Jr., M.D., Michael G. Reynolds, M.D. and Michael R. Thomas, R.N.A.

Rita then requested the Board consider a request for exemption to 30-day requirement to purchase tail coverage made by Dr. Benn Haynes, M.D. Dr. Haynes correctly made a request for continuing tail coverage in a timely manner, but due to circumstances beyond his control receipt of the request was delayed. This was due to a mailing problem which was not his error. Motions were made, seconded and passed granting him exemption. The Board granted Dr. Haynes two weeks after receipt of the Health Care Stabilization Fund approval letter to submit payment.

The monthly report ending July 31, 1994, was received by the Board.

The Board recessed shortly.



February 2, 1995

Carolyn Bloom, PT
1045 SW Gage Blvd.
Topeka, KS 66604
913-273-7700

Dear House Health and Human Services Chairman and Members:

My name is Carolyn Bloom and I rise to speak in favor of HB 2127. This bill will remove physical therapists from the list of health care providers required to pay into the Kansas Health Care Stabilization Fund. This Fund provides higher levels of professional malpractice insurance than could be purchased by many medical professionals in the1970's when this Fund was developed. It is now possible for physical therapists to purchase the higher levels of insurance coverage from private insurance companies, and at a cost less than the combined private basic insurance premium plus the Fund coverage premium.

There are no negative effects of passage of this bill, except that Kansas physical therapists have paid into the Fund since its inception, and $0.00 have been paid out of the Fund for physical therapists. Physical therapists must provide proof of tail coverage insurance when they exit from the Fund. This tail coverage can be provided by the Fund, as was done several years ago when Kansas pharmacists and optomatrists were removed from participation in the Fund.

HOUSE H&HS COMMITTEE
2-2-1995
Attachment 3-1

The positive effects of passage of this bill can be listed under several catagories.

1. Speaking as an employer of physical therapists, this bill will reduce the administrative hurdles therapists must jump to obtain a license in Kansas each year. Therapists coming in and out of the state must be aware of the extra steps in dealing with the Fund policy as well as their private policy. There are only two states that have a similar Fund coverage, and many private insurance representatives do not send the proper forms used for Kansas therapists only. Without the proper forms, the therapist does not know to send the additional Fund surcharge amount which is to be sent back to Kansas, and may then have their license in jeopardy.

Hospital employers who pay for benefits of malpractice liability insurance for their employees, must pay a blanket policy premium, then must pay additional separate private and Fund policies for each of the physical therapists employed by the hospital. This is actually a double coverage and cost to the hospital.

If there were a case filed against an employed therapist and against the employer hospital, having two insurance companies on the same case is confusing, and could be a conflict between the therapist and the employer in resolution of the case.

2. Speaking as a Past-President of the Kansas Physical Therapy Association, I have heard many complaints from physical therapists and employers across the state similar to the ones stated above. The extra confusion by therapists in obtaining a license only after obtaining liability insurance, may even discourage a therapist from coming into Kansas, where we have a shortage of physical therapists.

Therapists coming into Kansas to provide educational programs that includes practice on patients of Kansas, must have applied for temporary coverage of the Fund on a prorated basis for the number of days per year lecturing in Kansas. This is also very confusing to out of state speakers.

This Fund process is very confusing to therapists who live in Missouri and have work offers in Kansas; they frequently decide it is easier to work in Missouri.

3. Speaking as a past member of the Board of Governors of the Health Care Stabilization Fund, the representation of the Kansas physical therapists has been removed from the Board by the 1994 Kansas Legislature. The Board of Governors voted unanimously at the August, 1994 meeting to allow the physical therapists to withdraw from the Fund.

4. Speaking as a practicing physical therapist, I can purchase private professional liability insurance at $1.5 million to $3 million coverage at a cost less than the Fund, and with greatly reduced paperwork requirements.

I urge you to support passage of this bill.

Thank you for allowing me to speak to your Committee. I will answer any questions.

MEMBERS OF THE BOARD
LARRY W. BEDENE,
...MA
MR. FRANK L. BRUNER,
WICHITA
MR. ANDERSON E. JACKSON,
WICHITA
MR. MATTHEW J. SKRADSKI,
KANSAS CITY
MRS. FRANCES K. THULL,
CAWKER CITY

OFFICE STAFF
MACK SMITH,
EXECUTIVE SECRETARY
FRANCIS F. MILLS,
INSPECTOR-INVESTIGATOR
TERRY A. BLAND,
OFFICE SECRETARY

The Kansas State Board of Mortuary Arts

CREATED AUG. 1, 1907

700 S.W. JACKSON ST., SUITE 904
TOPEKA, KANSAS 66603-3758
(913) 296-3980

Thursday, February 2, 1995

The House Committee on Health and Human Services
Representative Carlos Mayans, Chairperson
Room 423-South, State Capitol
Topeka, Kansas 66612

Chairman Mayans and Members of the Committee:

My name is Mack Smith, and I am the executive secretary to the Kansas State Board of Mortuary Arts. I am here to testify in favor of House Bill 2163 which I requested this committee to introduce.

The bill has six sections dealing with six different statutes that I will describe, and then do my best to answer any questions of the committee.

Section 1 deals with KSA 65-1703. Amendments would give better definition in regards to supervision of student and apprentice embalmers in regards to the embalming process. Student embalmers would be required to be under the direct personal supervision (defined as physical supervision) of a licensed embalmer. Student embalmers are enrolled in mortuary school, and they must serve two semesters of practicum at a funeral home prior to graduation. Apprentice embalmers would be required to be under the personal supervision (defined as taking on the full responsibility for the action thereof--but not requiring the physical presence) of a licensed embalmer. Apprentice embalmers have graduated from Mortuary School with at least an AA degree in Mortuary Science and passed the national embalmer examination.

Section 2 deals with KSA 65-1705 and up-dates the penalty for the practice of unlicensed embalming to a class A nonperson misdemeanor. This change coincides with the Kansas Sentencing Guidelines. KSA 21-4503a defines the penalty for a class A misdemeanor as a sum not to exceed $2,500. This maximum penalty is considerably higher than current language, but it should help serve as a warning to possible violators.

Section 3 involves KSA 65-1713a and amends the definition of funeral establishments. The current definition includes language involving retail sales, while the amended language covers situations where a dead human body would be present. Other changes include clarification that a funeral merchandise room is not required in cases of branch establishments and the addition of the word "cremation" where it is currently omitted.

Section 4 deals with KSA 65-1726 and up-dates the penalty for violating any provision of article 17 of chapter 65. Once again this change coincides with the Kansas Sentencing Guidelines. KSA 21-4503a defines the penalty for a class A misdemeanor as a sum not to exceed $2,500. This maximum penalty is again considerably higher than current language, but it should help serve as a warning to possible violators.

Section 5 is KSA 65-1727 adds four new areas of fees that could be charged by the board. Two of these areas (duplicate licenses and rulebooks) are currently authorized via the Department of Administration statutes. The fees requested for continuing education program sponsor and licensee applications would be new. Please note that these fees are the maximum amounts. If this bill becomes law, the Mortuary Arts Board would set the exact amounts to be charged via regulation. Although no figures have been finalized by the board, fees of $20 for sponsors and $10 for licensees have been discussed. The only time a licensee would apply for approval of any individual continuing education program would be if the particular program had not already been applied for credit by a sponsor. Based on the figures of $10 and $20 as previously stated, an annual income of $4,800 would go to the Mortuary Arts Fee Fund. This estimate is based on 200 sponsor applications @ $20 ($4,000) and 200 licensee applications @ $10 ($2,000) with 80% or $4,800 going into the Mortuary Arts Fee Fund and 20% or $1,200 going into the General Fund.

Section 6 deals with KSA 65-1751 and would include some minor amendments and grammatical changes dealing with the board's licensure action law.

I would like to request that a new section 7 be added to the bill, and I have included a copy of the proposed amendment. The amendment would involve KSA 65-1729 and would make it unlawful for any person to operate, offer to operate or advertise a funeral establishment or a branch establishment unless they were licensed to do so. Current language mentions misrepresentation, but the board's appointed legal counsel feels that this language would be more appropriate. I apologize for not making this language a part of the original request for introduction, but it was not finalized at that time.

Thank you very much for the opportunity to testify in front of you today, and I would be happy to answer any questions.

65-1729. FUNERAL ESTABLISHMENT LICENSE; BRANCH ESTABLISHMENT LICENSE; FEES; DISPOSITION OF MONEYS. (a) The funeral director in charge of a funeral establishment, as defined by K.S.A. 65-1713a and amendments thereto, including any branch establishment, located or doing business within the state shall apply for and obtain a funeral establishment license or branch establishment license, as appropriate, from the state board of mortuary arts for each location within the state of such funeral establishment or branch establishment.

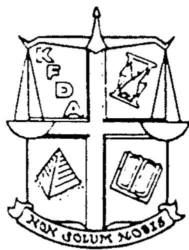
(b) An application for a new license is required if the funeral establishment or branch establishment changes ownership, name or location. Such application shall be made to the state board of mortuary arts at least 30 days prior to such change of ownership, name or location.

(c) The funeral establishment license fee or branch establishment license fee shall be fixed by the state board of mortuary arts under K.S.A. 65-1727 and amendments thereto and shall be due and paid to the state board of mortary arts on or before the expiration date of such license. The disposition of all funds collected under the provision of this act shall be in accordance with the provisions of K.S.A. 65-1718 and amendments thereto.

(d) Each funeral establishment license or branch establishment license shall expire every two years on a date established by the state board of mortuary arts by duly adopted rules and regulations.

(e) It is unlawful for any person who does not hold a funeral establishment or branch establishment license to operate, offer to operate, advertise or represent oneself as operating a funeral or branch establishment.

HISTORY: L. 1973, ch. 250, & l; L. 1979, ch. 188, & 12; L. 1981, ch. 300, & 5; L. 1985, ch. 215, & 16; L. 1986, ch. 238, & 4; L. 1991, ch. 190, & 7; L. 1992, ch. 51, & 2; July 1.



AFFILIATED WITH N.F.D.A.

THE KANSAS FUNERAL DIRECTORS AND EMBALMERS ASSOCIATION, INC.

EXECUTIVE OFFICE — 1200 KANSAS AVENUE, P.O. BOX 1904
TOPEKA, KANSAS 66601
PHONE 913-232-7789 FAX 913-232-7791

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TESTIMONY PRESENTED TO

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

ON

HOUSE BILL NO. 2163

FEBRUARY 2, 1995

Mr. Chairman and members of the commitee, my name is Pamela Scott, and I am Executive Director of the Kansas Funeral Directors and Embalmers Association, Inc.(KFDA). I appear before you today in support of House Bill No. 2163.

The amendments to K.S.A. 65-1703 found in Section 1 are welcomed by the KFDA. Those amendments will better define the degree of supervision an embalmer must exert over student and apprentice embalmers. This will eliminate any confusion our membership currently has over the amount of supervision they must exert over such embalmers by distinguishing between "direct personal supervision" and "personal supervision".

The KFDA has no objection to the other sections of the bill which update the definition of funeral establishment and clarify other provisions of the law regulating funeral directors and embalmers.

The KFDA supports the amendments requested by the State Board of Mortuary Arts and urges their adoption. Thank you for the opportunity to appear before you today.

HOUSE H&HS COMMITTEE
2 - 2 - 1995
Attachment 5

KANSAS BOARD OF HEALING ARTS

BILL GRAVES
Governor

LAWRENCE T. BUENING, JR.
Executive Director

235 S. Topeka Blvd.
Topeka, KS 66603-3068
(913) 296-7413
FAX # (913) 296-0852

M E M O R A N D U M

TO: House Committee on Health and Human Services

FROM: Lawrence T. Buening, Jr.
Executive Director

DATE: February 2, 1995

RE: **HOUSE BILL NO. 2194 - FEBRUARY 2, 1995**

Thank you for the opportunity to appear as a conferee on House Bill No. 2194. My name is Lawrence T. Buening, Jr. and I am the Executive Director of the Kansas State Board of Healing Arts. The State Board of Healing Arts licenses medical, osteopathic, chiropractic and podiatric doctors and registers or certifies physical therapists, physical therapist assistants, physicians' assistants, occupational therapists, occupational therapy assistants and respiratory therapists. The 15-member Board is appointed by the Governor and consists of 3 public members and 12 doctors, of which 5 are medical, 3 are osteopathic, 3 are chiropractic and 1 is podiatric. Thus, a majority of the members of the Board are licensed to practice medicine and surgery - the 5 medical and 3 osteopathic doctors. The Board of Healing Arts has been in existence since 1957 when the Legislature abolished 3 separate boards independently regulating the practice of medicine and surgery, osteopathy and chiropractic. Ms. Correll and Mr. Furse have prepared and have available a history of the Board of Healing Arts and the professions it regulates dating back to before the turn of the century. Therefore, I will not delve any further into the history of the Board at this time.

The purpose of the Board is set forth in K.S.A. 65-2801 which provides as follows:

> **"65-2801. Purpose. Recognizing that the practice of the healing arts is a privilege granted by legislative authority and is not a natural right of individuals, it is deemed necessary as a matter of policy in the interests of public health, safety and welfare, to**

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[illegible] D.C., Topeka
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HOUSE H&HS COMMITTEE
2-2-1995
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provide laws and provisions covering the granting of that privilege and its subsequent use, control and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized and unqualified practice of the healing arts and from unprofessional conduct by persons licensed to practice under this act."

The healing arts is defined in K.S.A. 65-2802(a) as follows:

"65-2802. Definitions. For the purpose of this act the following definitions shall apply:
(a) The healing arts include any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, or injury, and includes specifically but not by way of limitation the practice of medicine and surgery; the practice of osteopathic medicine and surgery; and the practice of chiropractic."

The Board does not license, register, certify or otherwise regulate any nurses, including those who have received a certificate to practice as an advanced registered nurse practitioner (ARNP). The Board, at its meeting December 9, 1994 was provided with a copy of a bill similar to HB No. 2194 which was to have been submitted to the Silver Haired Legislature. Also, this same bill proposal was discussed by the Legislative Committee of the Board which met January 19. Due to the introduction of this bill subsequent to the Board's meeting as well as that of its Legislative Committee, the Board has not had an opportunity to take a formal position on the bill itself. However, I have been authorized by the Board's officers and Legislative Committee to express serious reservations on HB No. 2194 and the effects it would have on the delivery of health care to the citizens of the State of Kansas.

The bill as proposed defines ARNP's as "practitioners" for the purpose of prescribing medicine and drugs and deletes any requirement of accountability to the Board of Healing Arts or any individual regulated by that Board in the manner in which those drugs are prescribed or utilized. I should note that K.S.A. 65-2869(b) defines persons deemed to be engaged in the practice of medicine and surgery as follows:

"65-2869 Persons deemed engaged in practice of medicine and surgery.... (b) Persons who <u>prescribe, recommend or furnish medicine or drugs</u>, or perform any surgical operation of whatever nature by the use of any surgical instrument, procedure, equipment or mechanical device for the diagnosis, cure or relief of any wounds, fractures, bodily injury, infirmity, disease, physical or mental illness or psychological disorder, of human beings." (Emphasis supplied.)

Similarly, podiatric doctors licensed by the Board may prescribe medicine as part of the practice of podiatry [K.S.A. 65-2002(b)]. ARNP's are authorized to function as a professional nurse in an expanded role [K.S.A. 65-1113(g)]. However, this expanded role is still nursing and the practice of nursing as set forth in K.S.A. 65-1113(d) and which is not being amended by this bill does not include the practice of medicine.

Allowing ARNP's to "prescribe drugs to the extent consistent with the training and education of the advanced registered nurse practitioner" places upon ARNP's the ability to practice medicine and surgery without being licensed therefor. Certainly no one would question the extraordinary value of the nursing profession in delivering health care as part of the health care team. However, throughout the years, legislation has been adopted to make a licensee under the Healing Arts Act the director of that health care team. Therefore, it has been left to the State Board of Healing Arts to define what are the qualifications of those individuals who serve as the director of that team. Standards for the qualifications for ARNP's are established by the Board of Nursing and not by the Board of Healing Arts. (See page 1, lines 20 through 22.) The Nursing Board "may require that some, but not all, types of advanced registered nurse practitioners hold an academic degree beyond the minimum education requirements for qualifying for a license to practice as a professional nurse". By enacting House Bill No. 2194, the Legislature will be allowing the State Board of Nursing to establish the standards for ARNP's to practice the healing arts and more specifically medicine. At the present time, those standards require a 9 month educational program in addition to that required for professional nursing (see K.A.R. 60-11-108(b)) and 6 hours of continuing education in pharmacology <u>of nursing</u> (see K.A.R. 60-11-113(d)). Further, K.S.A. 65-1131(b) allows the issuance of a one-time temporary permit to practice as an ARNP for up to 180 days pending completion of an application for a certification. Therefore, the possibility exists that the Board of Nursing may grant a temporary permit to an individual to practice as an ARNP who has had only 3 additional months of education over and above that required for licensure as a professional nurse.

Under K.A.R. 60-11-101, the Board of Nursing provides as follows:

> **".... advanced registered nurse practitioners may make independent decisions about <u>nursing</u> needs of families and clients, and <u>interdependent</u> decisions <u>with physicians</u> in carrying out health regimens for families and clients."** (Emphasis supplied.)

Finally, all individuals presently licensed to engaged in the practice of the healing arts are required to maintain professional liability insurance in accordance with the Health Care Provider Availability Act (K.S.A. 40-3401 <u>et seq.</u>). This act does not apply to ARNP's except for those who have been certified as nurse

anesthetists. Therefore, this bill, by allowing independent medical practice of ARNP's would enable such to be provided to consumers who, if injured by negligent practice, would have no recourse through the civil court system to recover any damages that might be sustained as a result of that negligent practice.

In conclusion, the Board of Healing Arts has long felt that the statutes regarding ARNP's are vague and ambiguous in that they may allow the practice of the healing arts, although ARNP's are regulated by the Board of Nursing. Therefore, if ARNP's wish to become independent practitioners of the healing arts, it is the opinion of the Board that they be regulated by the same entity that licenses and regulates the practice of the healing arts and subject to the rules and regulations and regulatory authority of the Kansas State Board of Healing Arts.

Thank you very much for the opportunity to appear before you. I would be happy to respond to any questions or provide any additional information you may desire.

KSNA
the voice of Nursing in Kansas

KSNA & You
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FOR MORE INFORMATION CONTACT:
Terri Roberts JD, RN
Executive Director
Kansas State Nurses Association
700 SW Jackson, Suite 601
Topeka, KS 66603
913-233-8638
February 2, 1995

PRESCRIPTIVE AUTHORITY FOR ADVANCED PRACTICE NURSES
HB 2194

Chairman Mayans, Members of the House Health and Human Services: My name is Debra Folkerts. I am a Family Nurse Practitioner from Manhattan, Kansas certified in Family Practice, Urology and Surgery. I have practiced in the Advanced Role for ten years. Today, I would like to address Prescriptive Authority for ARNPs embodied in HB 2194.

In 1986, the Office of Technology Assessment concluded ARNPs provided 75% to 80% of adult primary care services and 90% of pediatric services without need of consultation with a physician. Furthermore, Nurse Practitioners were able to provide primary care services as safely and effectively as physicians.

GAMING THE SYSTEM

Currently, ARNPs legally prescribe controlled medications without physician supervision in ten states. Their prescribing practices have proven effective and safe. HB 2194 relates specifically to prescriptive authority of which ARNPs are educated and experienced. In an effort to legitimize current practice Advanced Practice Nurses in Kansas believe this legislation is necessary. Currently, approaches used include presigned physician prescription pads, telephone orders to pharmacists by physicians at the request of ARNPs and counter-signatures of orders in institutions long after the medication was prescribed and administered. These are common gaming maneuvers.

Theoretically, an expansion of "gaming maneuvers" could expand prescriptive authority, serving as an alternative to legislative solutions. However, this only continues the misconception of who actually makes the prescription decisions. When practiced, these tactics allow patients timely access to care although potentially increasing liability of collaborating physicians, pharmacists, and RNs. If mechanisms of "gaming" the system were eliminated and controlled substance prescriptions were originated solely from the

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physicians, thus strictly complying with the law, then public health, safety, and welfare would take a serious step backwards.

ACCESS TO CARE

In regards to access to care, statistically ARNPs have helped fill a void for primary care practitioners in rural and urban underserved areas. Currently there are 110 Rural Health Clinics in Kansas. ARNPs staff 58 of these clinics, 22 RHCs are in critically underserved areas. Imagine a day in Kansas without the practice of ARNPs. There would be no surgical or trauma support services in 110 of the 132 hospitals in Kansas, absolutely no services of anesthesia west of Highway 81, 57 Rural Health Clinics closed, and family planning and primary care services provided by health departments not available, not to mention numerous individual practices closed. Obviously, the role is most effective when allowed to practice to the extent of education and training inclusive of prescription of necessary medications.

EDUCATION/COMPETENCY

A national review centered on adequacy of ARNP Pharmacology Education revealed the following comparison:

Graduate Education

Medicine-74 contact hours
ARNP-70 contact hours
Dentist-40 contact hours
Podiatrist-55 contact hours.

It was determined that ARNP Pharmacology education **exceeds** that of both dentists and podiatrists who have authority to prescribe scheduled drugs. Please note RN's are the only category who enter their graduate education having had a pharmacology course and extensive exposure to medications.

Evidence presented in a Washington Department of Health document demonstrates that expansion of prescriptive authority **would not harm the public.** Cost would decrease, access increase, and the change would provide for the best mix of health care personnel.

In states with extremely liberal regulations such as Oregon and Alaska, very few complaints have been filed. In Oregon with approximately 900 ARNPS, only 21 complaints were logged last year; none dealt with prescription. In Alaska, ARNPs have been writing prescriptions for nearly a decade; no one has sought to discipline an ARNP. In fact, from September 1990 to February 1992, only 20 malpractice payments were made on behalf of family practice concerning NPs across the country, according to the national data

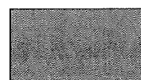
bank. As stated by Barbara Safriet in the Yale Journal on Regulation,

> **"Data supports ARNPs have a long and distinguished track record of providing quality and cost effective health care. One is left with these disquieting, but compelling conclusion, that continuation of these restrictions has more to do with protecting the competitive position of physicians than with protecting the public health."**

I would like to thank you for opportunity to speak in support of this legislation.

Nurse Practitioners (NP) Prescribing

Where It's Permitted--And Where It's Not

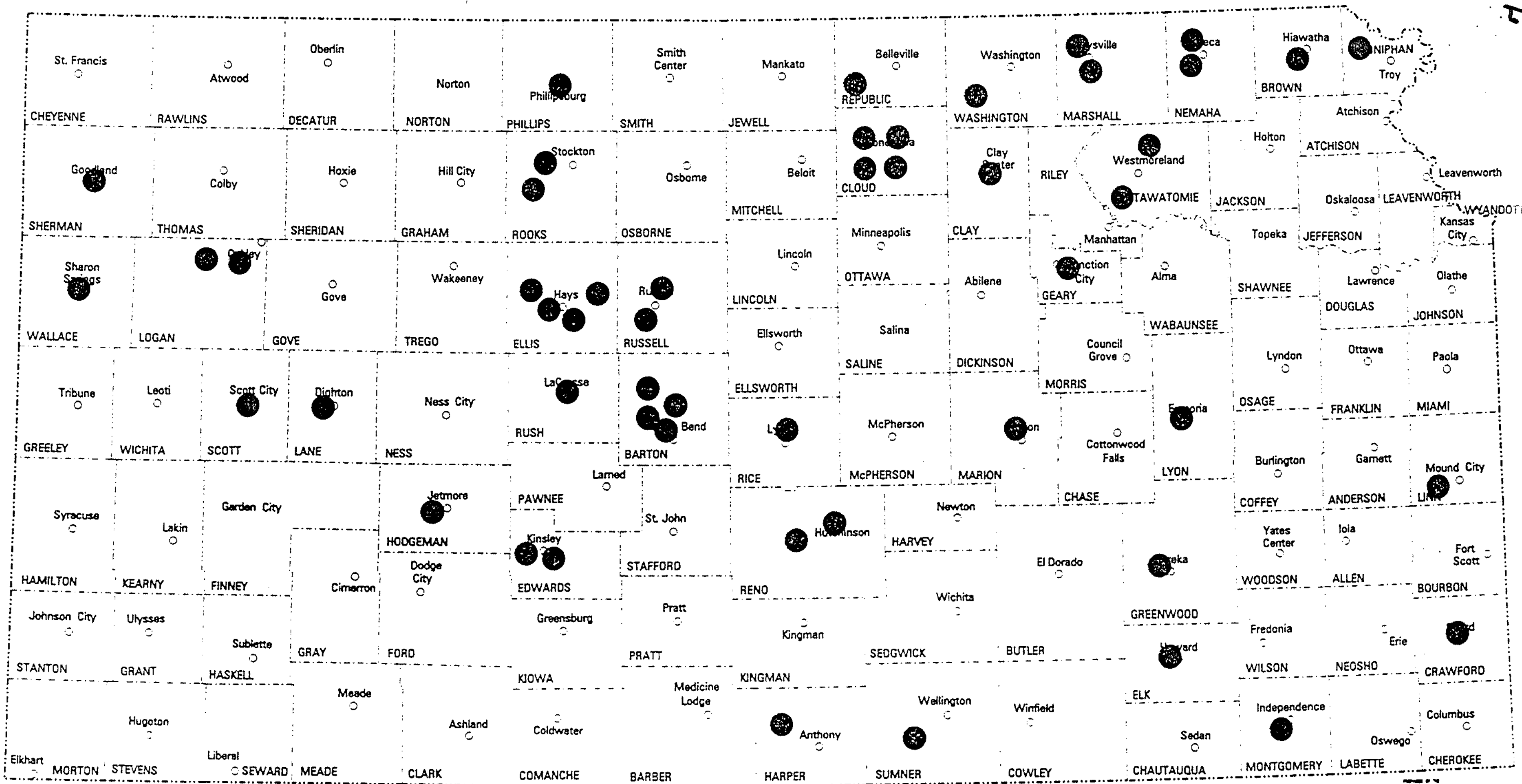


NPs can prescribe

NPs cannot prescribe

The Clinicians Reference Guide 1995

1995 Rural Health Care Clinics Staffed With ARNP's



KANSAS DEPARTMENT OF TRANSPORTATION
BUREAU OF TRANSPORTATION PLANNING
U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

Chairman Mayans and Committee Members:

My name is Charlotte Peake. I am a Nurse Practitioner, certified as an ARNP in Kansas and nationally board certified in family practice and geriatrics. Presently I am serving as the Chairperson of the Advanced Practice Conference Group of the Kansas State Nurse's Association.

Advanced practice nurses are seeking prescriptive authority so that they may better serve their patients. When the physician I practice with is out of town, I am responsible for providing health care to the patients of our two offices, both of which are Rural Health Clinics located in Federally designated critically underserved areas. In her absence it is nearly impossible to obtain medications for pain relief should a patient come in with an acute injury or painful ailment such as a kidney stone. Even though I am well acquainted with these patients and know the proper drug to order numerous barriers due to the present pharmacy law prohibit my doing this. Instead, valuable time is wasted trying to contact my backup physician in another town who is unfamiliar with the patient or may be attending to an emergency himself. As a result, the patient often occurs additional expense with a costly emergency room visit or a visit to another medical office. They often become confused and upset. In addition they find it confusing when my name is not on the bottle of medicine prescribed after a visit to my office, but rather someone's name whom they have not seen. At times they have wondered if they should even take the medication and treatment has been delayed or omitted as a result.

ARNPs are trained to use independent professional judgment in providing care and are trained to know when to consult with physicians and when to refer to other health care providers. Traditionally the practice of nurses was once limited to hands on care and formulating nursing plans of care. Times have changed. For the past 30 years advanced practice nurses have been evolving within the profession through health promotion, diagnosis and treatment of illness.

Statistics from other states which already have prescriptive authority reveal that ARNPs are traditionally very conservative in prescribing. For example, in Washington state where ARNPs have legally been prescribing legend drugs and class V controlled substances for 13 years, these providers have been found to be safe and

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700 SW Jackson, Suite 601 * Topeka, Kansas 66603-3731 * (913) 233-8638 * Fax (913) 233-5222
Carolyn Middendorf, M.N., R.N. -- *President* * Terri Roberts, J.D., R.N. -- *Executive Director*

effective. They have found that:

1. there is an increased demand for their services particularly in areas underserved by their physician counterparts.

2. high levels of patient satisfaction

3. minimal complaints before the boards of nursing and pharmacy.

Health care reform is a concern of all people. Cost is certainly an important issue. According to a study conducted by an economist at Wellesley College, the United States would save from $6.4 billion to $8.8 billion in health care costs annually if the barrier to practice faced by ARNPs were removed.

ARNPs are proven, competent, cost effective health care providers who offer genuine potential for immediate improvements in the delivery of health care in this country. Please support House Bill 2194 and remove barriers that prohibit ARNPS from functioning to their fullest capacity in this state.

Thank you.

Osage Medical Clinic
608 Holliday • P.O. Box 265 • Osage City, Kansas • 66523 • (913) 528-3161

February 2, 1995
Representative Carlos Mayans
Chairman, House Health and Human Services Committee
State Capitol Building
Topeka, Kansas 66612

Representative Mayans and members of the committee

My name is Jim Mellor. I am a Family Nurse Practitioner in continuous full time practice since my graduation from the nurse practitioner program at the Medical College of Virginia in 1978. I have been certifed in family practice by the American Nurses Association since 1980 and by the American Academy of Nurse Practitioners since 1993. I hold one associates degree, two baccalaureate and one masters degree. Since 1981, I have never earned less than 38 continuing education credits in a single year and in 1994 earned 73 including 49.6 in advanced pharmacology from the University of Colorado. I have served as clinical faculty for the University of Virginia School of Medicine at Charlottesville and the University of New Mexico School of Health Science.

I currently work with a family practice medical doctor in the only full time medical facility in Osage County, Kansas. I am on call every other night and every other weekend and I see patients in 4 nursing homes as well as in my office.

I would like to speak in support of H.B. 2194 relating to prescriptive autnority for advanced registered nurse practitioners. Before I address that issue, however, I would like to speak to what is perhaps an even more fundamental question for some of you and that is why have a nurse practitioner in an office like ours rather than a second physician. Others either have or will speak about patient acceptance, quality of and access to care etc.. I would like to speak in terms of numbers. The average difference between the gross billings of my physican colleague and myself is about #7,000.00 monthly. The difference between the cost of his compensation program and mine is about $8,800.00 monthly. Anotherwards, the physician costs about $8,800.00 more monthly to produce about $7,000.00 more in revenue. I believe that says something about the financial viability of the nurse practitioner role.

Prescriptive authority is an important issue for Kansas for several reasons:

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1. It will allow ARNP's to do a better job for the people we serve. When my physician colleague is out of town, on vacation or otherwise not available, I am the only game in town, so to speak. During those times there is no legal or ethical way for me to manage many of the more common problems people bring to me. The most common is that of pain control for many common problems such as minor injuries, headaches and toothaches. Many children are managed on methylphenidate hydrochloride for attention deficity disorders. While I never start children on this medication, it is often necessary for me to refill existing prescriptions. When my colleague is out of town, there is often a 3,4 or 5 day or even longer delay for these prescriptions. These therapeutic gaps are difficult for patients, parents and teachers alike. Additionally, we manage many terminal patients. Some are managed at home with the help of hospice and some in the nursing home. The therapeutic goal for these patients is to control their pain and allow them to remain alert and functional as possible. Prescriptive authority would allow for management of their problems when my colleague is not available. Contrary to what you may be thinking, these problems are not those which present significant cognitive difficulties for the practitioner. Rather they are some of the more straight forward and simpler problems to manage.

2. Prescriptive authority will permit ARNP's better access to underserved areas which may include inner city and certain other urban areas as well as rural areas. I have practiced in New Mexico with full prescriptive authority. Shortly after starting work for the Lovelace Foundation in Albuquerque, N.M., I was assigned to a rural health clinic in Hagerman, N.M.. Within four months, Lovelance formed an alliance with what was then known as HCA and is now known, I believe, as Columbia HCA and their first act was to close down all their rural health clinics because none were profitable. Because we had prescriptive authority, my wife and I were able to purchase the practice and operate it profitably enough for the next 18 months when we sold it to a private physician from Carlsbad, N.M.. Without prescriptive authority, we could not have done that and there would have been no access to local health care for that area as the next closes doctor's office was 46 miles away.

3. Sikscenski & Sanson in their recent study of state practice environments and supply of nurse practitioners, midwives and physician assistants published in

the New England Journal of Medicine 1994;331:1266-1271 stated that favorable practice environments were clearly associated with higher practitioner populations and that favorable practice environments were determined by 3 variables: state legal recognition of practice, reimbursement for services and PRESCRIPTIVE AUTHORITY. By assigning point values from 0 to 100 to each of these criteria they were able to evaluate which states had the most favorable practice environments. Oregon was first with a score of 100. Montana, N.D., N.H., Wyo., Alaska, N.Y., MD., Utah and Washington rounded out the top ten. Kansas was well down the list around 27 or 28 I am told.

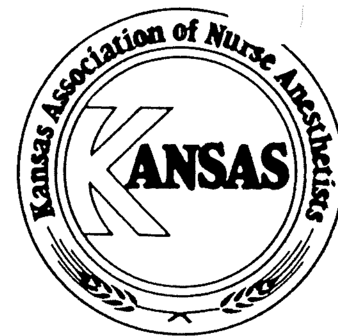
4. Prescriptive authority will put an end to a practice that is fundamentally fraudulent and confusing for patients, pharmacists and other providers. When an ARNP evaluates a patient and transmits a drug order which a pharmacist then fills as a prescription which bears the name of a physician and not the name of the ARNP and the physican has not seen or evaluated the patient and has no knowledge of the encounter, there is a problem. It is fraudulent to state on a prescription label that it was generated by a physician when, in fact, it was not. It is confusing to patients when they believe they have seen an ARNP and then get home and see someone else's name that they may not even recognize on their prescriptions. It is confusing for the pharmacist and the physician at refill time and it is confusing for subsequent providers who may wish to request records from a provider whom the patient can only remember by the name on his prescriptions.

5. Lastly, prescriptive authority places accountability for decisions made in the management of patient's health care problems squarely where it belongs and that is with the provider who makes the evaluation and management decisions.

PRESCRIPTIVE AUTHORITY is GOOD for health care in Kansas.

Thank you for your time and attention.

KANSAS ASSOCIATION OF NURSE ANESTHETISTS



February 2, 1995

Representative Carlos Mayans
Chairman, House Health and Human Services Committee
State Capitol Building
Topeka, Kansas 66612

Representative Mayans and members of the committee,

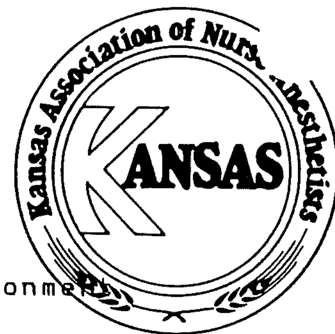
My name is Joseph P. Conroy, a Certified Registered Nurse Anesthetist from Emporia, Kansas, representing the Kansas Association of Nurse Anesthetists. This letter is in reference to H.B. 2194, relating to prescriptive authority for Advanced Registered Nurse Practitioners.

A Registered Nurse Anesthetist is one of the four categories of A.R.N.P.'s, and our state association represents over 400 nurse anesthetists in the state of Kansas.

Our organization strongly supports H.B. 2194, authorizing prescriptive authority for A.R.N.P's, within their scope of practice.

R.N.A.'s are currently authorized to practice under separate statutes in the Nurse Practice Act- K.S.A. 65-1151 to K.S.A 65-1164. The medications and anesthetic agents administered pursuant to an anesthesia care plan are not true prescriptions according to K.A.R. 68-20-1(e). But the granting of prescriptive authority to all A.R.N.P.'s would eliminate any confusion concerning our authorization to practice anesthesia and the inefficiencies that result.

KANSAS ASSOCIATION OF NURSE ANESTHETISTS



In 1992, the Kansas Department of Health and Environment amended the Hospital Rules and Regulations for anesthesia services in K.A.R. 28-34-17a,(c) whereby physician supervision language was removed for nurse anesthetists. To fully realize the access to care that can be provided by nurse anesthetists, the authorization of prescriptive authority would grant the independence, discretion and autonomy necessary to the effective and efficient practice of our profession.

Finally, the granting of prescriptive authority would eliminate what remains of the "captain of the ship' doctrine whereby the physician is liable as well as the anesthetist. Since nurse anesthetists are covered under the Health Care Stabilization Fund, vicarious liability was already abolished under K.S.A. 1991 Supp. 40-3403(h).

In conclusion, the Kansas Association of Nurse Anesthetists support H.B. 2194. In Kansas, 110 of 132 hospitals providing surgical services rely solely on C.R.N.A.'s for anesthesia services. With prescriptive authority, we can continue to supply safe and effective anesthesia care, and be recognized health care providers in whatever form health care takes in the future, be it managed care or some other form.

Thank you for your time.

Joseph P. Conroy, B.A., C.R.N.A., A.R.N.P.
2614 Apple Drive
Emporia, Kansas 66810-5910
316-342-0856

.othy J. Lord
RN, MDiv, MSN, ARNP-CS
Family Nurse Practitioner

TO: Health and Human Services Legislative Committee
Chairperson: Mr. Carlos Mayans
FROM: Timothy J. Lord, MDiv, MSN, ARNP-CS
DATE: February 2, 1995
RE: Advanced Registered Nurse Practitioner Prescriptive Authority

Thank you Committee Chairperson and Members of the Committee on Health and Human Services. My name is Timothy Lord. I am a Family Nurse Practitioner who practices in the rural areas of Norwich, Cunningham, and Kingman, all areas west and south of Wichita. Originally from Marysville, I have a deep appreciation for quality health care in Kansas, both Urban and Rural. Given my rural upbringing, I especially am committed and concerned for the preservation of quality health care in Rural Kansas. For that reason, even though I reside in Wichita in the same neighborhood of Mr. Mayans, I drive daily nearly 150 miles to assure that the communities where I serve as a Family Nurse Practitioner continue to have quality health care accessibility. At Norwich, I represent the only health care provider in a thirty-five mile radius. Patients from over five counties come to the Norwich Rural Health Clinic to seek care from myself, an Advanced Registered Nurse Practitioner.

I take great pride in serving as a Family Nurse Practitioner and I am very intentional about the role, as compared to the role of physician. Nursing allows me the opportunity to specialize my care to center around the patient in order to potentiate quality health care and facilitate the needs of the patient being met in a very caring and personal fashion. House calls are routine for me on a daily basis. Helping with scoliosis back checks at the school and teaching the students about health and wellness are all a part of the ARNP role. While paid a fraction of our physician counterparts, ARNPs are motivated in their profession by touching the lives and impacting positively the quality of life of those we serve in the community. This philosophy continues to represent the very foundation of Nursing. I am proud and honored to be an Advanced Registered Nurse Practitioner.

My education is varied. Added to my baccalaureate degree from the University of Kansas, I have both a Masters of Divinity in Theology and a Masters of Science in Nursing. I have national accreditation from the American Nurses Association in Primary Care out of Washington, D.C. I continue to teach part time at Wichita State University and I serve as a clinical preceptor for Southwestern University and the University of Missouri.

Concerning my pharmacology preparation, I have six hours from the University of Kansas and six hours from the University of North Dakota, totalling 12 hours of pharmacology college education, not to mention ongoing pharmacology continuing education. This compares to the present three hours of pharmacology the physicians receive from the University of Kansas School of Medical in Kansas City, KS. Many ARNPs in Kansas have as many pharmacology hours, if not more, than myself.

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Norwich Health Center
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The residents of Kansas are blessed now to have graduate level Family Nurse Practitioner education available in Kansas via the University of Kansas, Wichita State University, Fort Hays State University, and soon to be Pittsburg State University. Additionally, we are honored to have the Pharm-Ds of the Pharmacy School at the University of Kansas Medical Center responsible for offering the pharmacology education to the ARNP students. Dr. Mike Osco, Pharm-D, directs this pharmacy course which is offered to the ARNP students. This course totals three credit hours of graduate level pharmacology. Added to the undergraduate Nursing pharmacology hours, ARNPs still are receiving twice to four times as many pharmacology hours than the average hours provided to physicians. Given my experience with the Pharmacology Course presently being taught by KU, I am very impressed and pleased with its quality and high standards.

As an ARNP, I am practicing primary health care in rural Kansas with the same intensity, same responsibility, and same obligation as any physician. And, I might add, I am providing quality care to residents who have no other access to health care in their vicinity. My education preparation, similarly to other ARNPs and our present ARNP students in Kansas, has prepared me well to serve the public in a very informed, competent, and safe manor. I treat each of my patients with the same concern that I would my own family members.

Yet, my ability to practice, to provide this quality health care to the communities I serve, to impact the lives that I touch daily, all rests in my ability to find a physician who will sponsor me according to present Kansas Statutes. In rural Kansas, this task is becoming nearly impossible, especially in western Kansas. In urban Kansas, this task also is nearly impossible because of competition. Given the power of the physician with the state statutes, the ARNP is given a very unfair ability simply to practice. In order not to allow an ARNP to practice within a vicinity, physicians have the power not to sponsor the ARNP, regardless of the need for additional health care providers. The end result is less health care provider accessibility, higher health care costs, and ultimately, less quality of health care. Sadly, I have ARNP colleagues who pay upwards to $3000 monthly to their physicians simply for the right and ability to practice. In every respect, this represents an unfair labor practice and the grounds to blackmail.

ARNPs in Kansas not only have the educational preparation to practice health care competently and in the best interests of the residents of Kansas, they have a proven track record of safe and competent practice patterns. Prescriptive Authority will not change that pattern of practice standards. The Kansas State Board of Nursing will continue its high standard of licensure requirements and monitoring of ARNP practice. Prescriptive Authority for ARNPs in Kansas simply will give ARNPs the ability to practice...... in all areas of Kansas, both urban and rural, without incurring the political power and shared liability from physicians. ARNP - Physician relationships will continue to be collegial and collaborative in nature, all as a means to better serving the Kansas resident.

I request you Mr. Chairperson and Members of the Committee on Health and Human Services to support Advanced Registered Nurse Practitioners in the State of Kansas in our effort to receive Prescriptive Authority. The benefits to the residents of Kansas will be seen immediately with improved health care access (both urban and rural), improved quality of health care, and more affordable health. As have numerous other states granted prescriptive authority to ARNPs, so does the State of Kansas now need to include ARNPs in Prescriptive Authority Status. Thank you for your support.

My name is Gays Skillen. I am currently active in Council on Aging, as a Silver Haired Legislator, SCHICK (Certified insurance counselor for Seniors), President of the Norwich Care Center, Inc. Board of Directors, (trying to establish a nursing home in Norwich), and newly elected member of the Kingman Community Hospital Board.

We are struggling to establish and maintain quality health care for rural areas. It is obvious that locally available and prompt health care encourages preventive measures, reducing hospitalization and debilitating illness that can result in the necessity of nursing home care.

Just knowing that competent professional help is near, is encouragement to elderly and disabled to remain in their home. It has not been uncommon to wait two or three weeks for an appointment when our clinic was closed. This was a real problem for all rural citizens of all ages. Lack of prompt attention resulted in visits to emergency centers and more severe illness at more expense.

I have been favorably impressed that Tim Lord ARNP in our Norwich Clinic has minimized the number of medication taken or required by many of our elderly people. His local availability and willingness to make house calls enables him to see and visit patients often, which is building a relationship to trust and caring.

In conclusion, we must streamline cumbersome documentation and regulations, freeing our health professionals to use their expertise and time to the maximum capacity, reducing the cost and increasing availability of health care. We need realistic regulations that are efficient and workable. We should allow all professionals to use their skills and training and not be deterred by archaic regulations. Kansas must join the other 36 states that have approved prescriptive authority for ARNP's.

Our community is very appreciative of our clinic and especially or ARNP. We will support any effort to simplify regulations in relation to practice of giving prescriptions and related health care. I respectfully ask that you consider and introduce this bill to the Kansas Legislature.

a:\green\Terri 2295 testimony\jskillen.wp51 mk

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Attachment 12

A Licensed Community Mental Health Center

Joan Balderston
Governing Board President

Kermit George, ACSW
Executive Director

Lourdes R. Tan, M.D.
Medical Director

208 East 7th Street Hays, Kansas 67601

February 2, 1995

Good afternoon. Chairman Mayans and members of the Health and Human Services Committee, my name is Gordon Kuntz. I am an Advanced Registered Nurse Practitioner with a specialization in Mental Health. As an employee of High Plains Mental Health Center, I work with clients from our 20 county catchment area who suffer from mental illness. Today, I am here representing the Association of Community Mental Health Centers of Kansas, Inc., regarding House Bill 2194.

I believe it is critical to pass House Bill 2194, which allows Advanced Registered Nurse Practitioners (ARNP's) to have independent prescriptive authority. My position is based on the continued need to contain Health Care costs, provide effective and appropriate treatment, improve accessibility of service, and facilitate greater continuity of care for our clients. This is paramount in Kansas, where 83 of the 105 counties are underserved by the psychiatric specialties (physicians). Having ARNP's available to provide thorough assessments, perform extensive patient teaching, and implement necessary changes which frequently include psychopharmacologic adjustments, provides a valuable service

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Serving the People of Northwest Kansas

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Osborne Office
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to mental health clients where there are shortages of primary care physicians. Unfortunately, unnecessary restrictions on our scope of practice, specifically prescriptive authority, limits our ability to prescribe scheduled drugs (Class II-V) which are an essential part of treatment for mental health clients.

ARNP's are not low-priced physician substitutes. We are professional nurses with specific educational and licensing requirements through a Board of Nursing. ARNP's are highly skilled at performing a wide array of services, which in turn helps to contain health care costs. Research has demonstrated clients believe ARNP's provide equal or higher quality of care as compared to their physician counterparts, and at a much lower cost (Hamric, A., and Spross, J. 1989. The Clinical Nurse Specialist in Theory and Practice).

We are all aware of the demand to do things differently, to contain health care costs, and to improve the diversity and accessibility of mental health services while maintaining quality patient care. Passing House Bill 2194 and allowing Advanced Registered Nurse Practitioners independent prescriptive authority is a critical step towards meeting these demands.

Thank you, Mr. Mayans and members of the Health and Human Services Committee, for allowing me the opportunity to speak today on this very important issue.

TO: Chair Mayans and Members of House Health and Human Services Committee
FROM: Carla A. Lee, Ph.D., ARNP, FAAN, Director, FHSU Family Nurse Practitioner Program cal
RE: Testimony for Prescriptive Authority Bill

Thank you for your addressment of HB # 2194 regarding deliberations to enhance the prescriptive authority of ARNPs in the State of Kansas. The need for enhancement for full prescriptive authority has emerged from about 20 years of preparing Nurse Practitioners in the State of Kansas. Initially, most transmittals were handled as standing orders. By 1980, rules and regulations were devised to utilize a transmittal system. With the increase in rural health clinics in our state since 1990, the specialization of the ARNPs in urban specialty clinics, the vast underserved regions both urban and rural presently serviced by ARNPs, and with the increased preparation of NPs to the masters level in all three programs in the state, such an approval will be appropriate, and in fact, desperately needed.

Historically, Kansas has been a leader in the development of the educational programs in the early 70s both at KU and WSU. KU also offered a certificate program in the Hays area in the 80s. The initial programs were certificate, which focused heavily on pharmacology and clinical practice. Both KU and WSU offered a 12 month program with a major part of the time spent in clinical sites.

Following the national trend to graduate level education, programs in Kansas were initiated in the early 90s at three regents schools: FHSU, KU, and WSU. The curriculum for each school is approved as school-specific programs and all three programs require a graduate level, three credit pharmacology course. The current Advanced Pharmacology course is instructed by KU campus via Mike Oszko, Pharm D, Associate Professor, School of Pharmacy and Medicine.

This three credit graduate course is taught at the advanced practice level, building on previous pharmacology credit from the RNs' education in undergraduate studies in their Bachelor of Science degrees. The course focuses on prescription writing, factors related to drug selection, dosages, pharmacokinetics, side effects, and special considerations. Case presentations and discussions are integrated throughout the collaboration courses at the three sites. The instructor also utilizes state-of-the-art lectures to provide instruction in specific specialty areas.

All of the clinical education at the present KS Primary Care Nurse Practitioner Program integrates pharmacology into the curriculum. This pharmacology curriculum furthermore is incorporated into the clinical practicums throughout the course of the program. For example, in clinic experiences, graduate ARNP students complete initial history and physical, secure appropriate diagnostic information, lab or x-ray, and present the problem of the client to their clinical preceptor. A plan of care, including

pharmacological implications, is developed. Patient instruction regarding actions and effects is stressed throughout the program. Each ARNP has access to supervisory faculty, clinical preceptors, and Nurse Practitioner mentors.

The Kansas Primary Care Nurse Practitioner Program continues to demonstrate a high level of quality demonstrated in its curriculum, especially in the area of pharmacology. Furthermore, the graduates of the program demonstrate this high level of competency in clinical practice throughout both urban and rural Kansas. Given the needs as outlined above added to the present level of ARNP education now in the State of Kansas, I strongly request your support for ARNP Prescriptive Authority in House Bill # 2194. Thank you.

Kansas State Board of Nursing

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Patsy L. Johnson, R.N., M.N.
Executive Administrator
913-296-5752

To: The Honorable Representative Carlos Mayans, Chairman
and Members of the Public Health & Welfare Committee

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

Date: February 2, 1994

Re: HB 2194

Thank you for allowing me to testify on HB 2194 for the Board of Nursing. In today's changing health care, there is an ever expanding scope of practice for all levels of nursing. Since 1988, advanced registered nurse practitioners (ARNP's) have been transmitting prescription orders per protocol as established with physicians. Full prescriptive authority for ARNP's would be one further step in the evolution process. The Board recognizes changes in practice but takes no position as to whether changes should take place or not as long as within the law. The Board's focus is that public safety is maintained as changes in practice take place.

With prescriptive authority, the Board is concerned that ARNP's are competent. The Board's position is that competency is built upon acceptable education. The Board supports the language in HB 2194 which requires ten additional continuing education hours for certificate renewal but requests that those additional hours be at an advanced level. After reviewing a small sample of certificate renewals,

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there was indication that some ARNP's are getting their continuing nursing hours only in general nursing courses and not in advanced practice. Because prescriptive authority allows for more independent judgement in what drugs may be utilized, then some course work in advanced practice should be a logical requirement. In many of the advanced practice courses there is pharmacology content. The Board believes this is necessary for continued competency.

The issue of advanced practice continuing education as a requirement has been discussed with the representatives of the Kansas State Nurses Association. There was indication there is no opposition to this amendment. The Board hopes you consider this amendment to HB 2194.

Thank you. I am always available for questions.

PLJ:sb

1 The expiration date shall be established by rules and regulations of the
2 board. The board shall mail an application for renewal of a certificate of
3 qualification to every advanced registered nurse practitioner at least 60
4 days prior to the expiration date of such person's license. Every person
5 who desires to renew such certificate of qualification shall file with the
6 board, on or before the date of expiration of such certificate of qualifi-
7 cation, a renewal application together with the prescribed biennial re-
8 newal fee. *The board shall require every licensee with an active certifi-*
9 *cation as an advanced registered nurse practitioner to submit with the*
10 *renewal application evidence of satisfactory completion of 10 hours of* → ***advanced practice***
11 *continuing education. The 10 hours of continuing education shall be in*
12 *addition to continuing education requirements established for the renewal*
13 *of a license under K.S.A. 65-1117 and amendments thereto.* Upon receipt
14 of such application and payment of any applicable fee, and upon being
15 satisfied that the applicant for renewal of a certificate of qualification
16 meets the requirements established by the board under K.S.A. 65-1130
17 and amendments thereto in effect at the time of initial qualification of
18 the applicant, the board shall verify the accuracy of the application and
19 grant a renewal certificate of qualification.
20 (b) Any person who fails to secure a renewal certificate of qualifica-
21 tion prior to the expiration of the certificate of qualification may secure
22 a reinstatement of such lapsed certificate of qualification by making ap-
23 plication therefor on a form provided by the board, upon furnishing proof
24 that the applicant is competent and qualified to act as an advanced reg-
25 istered nurse practitioner and upon satisfying all of the requirements for
26 reinstatement including payment to the board of a reinstatement fee as
27 established by the board.
28 Sec. 3. K.S.A. 65-1626 is hereby amended to read as follows: 65-
29 1626. For the purposes of this act:
30 (a) "Administer" means the direct application of a drug, whether by
31 injection, inhalation, ingestion or any other means, to the body of a patient
32 or research subject by:
33 (1) A practitioner or pursuant to the lawful direction of a practitioner,
34 or
35 (2) the patient or research subject at the direction and in the presence
36 of the practitioner.
37 (b) "Agent" means an authorized person who acts on behalf of or at
38 the direction of a manufacturer, distributor or dispenser but shall not
39 include a common or contract carrier, public warehouseman or employee
40 of the carrier or warehouseman when acting in the usual and lawful course
41 of the carrier's or warehouseman's business.
42 (c) "Board" means the state board of pharmacy created by K.S.A. 74-
43 1603 and amendments thereto.

Rationale: Without reference that continuing education be in advanced practice, then the ARNP may take courses in general nursing. With the change in the ARNP's scope of practice there is a different knowledge required and the continuing education should be appropriate for that level of practice.

15-3

Kansas State Board of Pharmacy

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STATE OF KANSAS

BILL GRAVES
GOVERNOR

TOM C. HITCHOCK
EXECUTIVE SECRETARY/DIRECTOR

DANA W. KILLINGER
BOARD ATTORNEY

HOUSE BILL 2194
HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES
THURSDAY, FEBRUARY 2, 1995

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS TOM HITCHCOCK AND I SERVE AS THE EXECUTIVE SECRETARY FOR THE BOARD OF PHARMACY. I APPEAR BEFORE YOU TODAY ON BEHALF OF THE BOARD IN OPPOSITION OF HB 2194 CONCERNING THE ADVANCED REGISTERED NURSE PRACTITIONERS (ARNP) PRESCRIBING AND THEIR INCLUSION WITHIN THE DEFINITION OF PRACTITIONER IN THE PHARMACY ACT.

PART I - WHAT THEY HAVE

FOR THE PAST APPROXIMATELY SIX YEARS THE ARNP HAS HAD THE AUTHORITY, WITHIN A WRITTEN PROTOCOL WITH A RESPONSIBLE PHYSICIAN, TO WRITE A PRESCRIPTION ORDER FOR A PRESCRIPTION ONLY DRUG WHICH IS NOT A CONTROLLED SUBSTANCE (CS). THE PUBLIC DEEMS ANY WRITTEN PRESCRIPTION WHICH CAN BE FILLED IN A PHARMACY AS PRESCRIBING. THE PHARMACY BOARD WOULD HAVE A TENDENCY TO CONCUR WITH THIS PHILOSOPHY AND THEREFORE FEELS THE ARNP MAY ALREADY BE EMPOWERED TO PRESCRIBE WITHIN THE RESTRICTIONS OF A WRITTEN PROTOCOL.

AN ARNP MAY NOT WRITE AND SIGN A PRESCRIPTION FOR A CS DRUG AS THEY HAVE NO DEA NUMBER. BOTH FEDERAL AND STATE LAW REQUIRE THAT A PRESCRIBER OF A CS DRUG MUST ENTER ON THE PRESCRIPTION THEIR DEA REGISTRATION NUMBER. THIS CREATES NO PROBLEM FOR THE PATIENT DUE TO THE FACT THAT ALL CS PRESCRIPTIONS, WITH THE EXCEPTION OF C-II DRUGS AND THOSE WHICH FALL UNDER THE AMPHETAMINE LAW, MAY EASILY BE PHONED BY AN ARNP TO A PHARMACIST. IF THE ARNP FEELS A NECESSITY TO PRESCRIBE A C-II OR AMPHETAMINE DRUG, IT COULD EASILY BE REQUESTED OF THEIR RESPONSIBLE PHYSICIAN TO GENERATE SUCH PRESCRIPTION. THIS SYSTEM APPEARS TO BE

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WORKING WHERE REQUIREMENTS OF THE WRITTEN PROTOCOL ARE MET AND THE PHARMACY BOARD DEEMS THAT BY COMPLIANCE WITH CURRENT CHECKS AND BALANCES THE PUBLIC IN KANSAS IS ADEQUATELY PROTECTED.

PART II - WHAT THEY WANT

WITH THE PASSAGE OF HB 2194, THE ARNP IS REQUESTING SEVERAL THINGS. FIRST ON PAGE 2, LINE 20, IT IS APPARENT THEY WANT TO PRESCRIBE. IN THE ABOVE DESCRIPTION IN PART I, WE HAVE EXPLAINED THAT THEY ALREADY POSSESS THAT AUTHORITY TO PRESCRIBE. THIS CHANGE TO INDEPENDENTLY PRESCRIBE WOULD ALLOW THEM TO RECEIVE A DEA REGISTRATION NUMBER AND PERMIT THEM TO PURCHASE, POSSESS AND PRESCRIBE CS DRUGS.

ALSO ON PAGE 2, LINE 21 THROUGH LINE 39, THEY WISH TO CUT THE CORD OF RESPONSIBILITY WITH A PHYSICIAN BY ELIMINATING THE WRITTEN PROTOCOL. THIS WOULD ALLOW THEM TO PRESCRIBE MORPHINE, COCAINE, DEMEROL, AND OTHER C-II DRUGS WITH THE EXCEPTION OF THE AMPHETAMINES AND SYMPATHOMIMETIC AMINES REGULATED UNDER K.S.A. 65-2837a.

IT IS THE OPINION OF THE PHARMACY BOARD THAT AN ARNP DOES NOT HAVE ADEQUATE KNOWLEDGE OF THE PHARMACOLOGICAL ACTIVITY OF MOST DRUGS ON THE HUMAN ANATOMY TO PRESCRIBE SUCH DRUGS. IN THE CIRCLE TO DIAGNOSE, PRESCRIBE, AND DISPENSE DRUGS THE REMOVAL OF THE PROTOCOL RESPONSIBLE PHYSICIAN HAS BROKEN THE CIRCLE OF MEDICAL TREATMENT FOR THE PATIENT.

IT IS ALSO THE OPINION OF THE PHARMACY BOARD THAT THE INCLUSION OF THE ARNP IN THE DEFINITION OF PRACTITIONER IN THE PHARMACY ACT, AS REQUESTED ON PAGE 6, LINE 14, WOULD INDEED ALLOW THE ARNP TO PRACTICE MEDICINE. THIS WOULD AGAIN TRANSPIRE WITHOUT THE EXTENSIVE KNOWLEDGE IT TAKES TO BECOME A COMPETENT DIAGNOSTICIAN AS WELL AS THE LACK OF PHARMACOLOGICAL ACTIVITY AND KNOWLEDGE OF MANY DRUGS.

PART III - WHO REGULATES AND CONCLUSION

THE ARNP IS FOUND WITHIN THE NURSING ACT AND IS REGULATED BY THE BOARD OF NURSING. THIS CREATES AN ADDITIONAL PROBLEM WITH THE PHARMACY BOARD IN THAT THE REGULATORY AGENCY FOR AN ARNP INCLUDES BOARD MEMBERS AND STAFF WHO ALSO DO NOT HAVE THE INTRICATE KNOWLEDGE OF PHARMACOLOGICAL ACTIVITY OF ALL THE DRUGS THAT MIGHT BE PRESCRIBED BY ONE OF THEIR LICENSEES. THIS REGULATORY AGENCY HAS HAD THE SPECIFIC REQUIREMENT FOR THE PAST FIVE YEARS THAT EACH ARNP CURRENTLY WORKING WITH A RESPONSIBLE PHYSICIAN MUST HAVE A WRITTEN PROTOCOL DESCRIBING WHAT ACTIVITY OUTSIDE OF NURSING THE ARNP MAY PARTICIPATE. THE BOARD OF NURSING HAS ABSOLUTELY NO IDEA IF ANY ARNP DOES INDEED HAVE A WRITTEN PROTOCOL WITH THEIR RESPONSIBLE PHYSICIAN BECAUSE UNLIKE THE BOARD OF HEALING ARTS REQUIREMENT THAT A PA/PHYSICIAN PROTOCOL COPY BE SENT TO THEIR OFFICE, THE BOARD OF NURSING HAVE NO SUCH REQUIREMENT. ONE YEAR AGO WHEN ONE OF OUR INVESTIGATORS INADVERTENTLY FOUND AN ARNP WITH NO PROTOCOL OR KNOWLEDGE OF SUCH REQUIREMENT, THE NURSING BOARD INVESTIGATED AND TOOK NO ACTION AGAINST THE ARNP WHO HAD PARTICIPATED FOR SEVERAL YEARS WITHOUT ANY PROTOCOL.

IN CONCLUSION, THE BOARD OF PHARMACY BELIEVES THAT THE ARNP IS NOT QUALIFIED TO PRACTICE MEDICINE NOR SHOULD THEY BE ALLOWED TO PRESCRIBE INDEPENDENTLY OR BE INCLUDED IN THE DEFINITION AS A PRACTITIONER. WE WOULD, THEREFORE, RESPECTFULLY REQUEST THAT HB 2194 NOT BE PASSED OUT OF COMMITTEE FAVORABLY.

Kansas Academy of Family Physicians

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HOUSE HEALTH AND HUMAN SERVICES COMMITTEE
TESTIMONY ON HB 2194
THURSDAY, FEBRUARY 2, 1995

Jesse C. Haggerty, III, MD, MSc, MPH, PhD

On behalf of the Kansas Academy of Family Physicians (KAFP) I would like to thank each of you for the opportunity to address the House Health and Human Services Committee regarding HB 2194. I am Dr. Jesse Haggerty, a family physician educator, and Chairman of the Legislative Affairs Committee with the KAFP. I am here today on behalf of the 672 active physician members of the KAFP and the 118 resident physician members of the Academy to speak in opposition to HB 2194. The members of the KAFP have some significant concerns about the statute as currently printed, and we greatly appreciate the opportunity to share those concerns with the Committee today.

Background: Family physicians have worked with non-physician providers (NPPs), specifically certified nurse midwives, nurse practitioners and physician assistants, to extend the availability of health care more than any other medical specialty. Approximately one-third of family physicians across the nation have reported utilizing at least one NPP in their practices. What those family physicians have discovered is that NPPs improve patient flow and decreased waiting times for appointments. Further, NPPs add emphasis to prevention and patient education, enabling physicians to focus on the more difficult cases, and, particularly for the solo physician, NPPs provide professional companionship essential to a healthy practice environment.

Collaboration: The KAFP recognizes and respects the autonomy of nurses as independently licensed professionals. However, prescriptive authority by its very nature involves medical diagnosis and treatment, and cannot be said to lie solely within the scope of nursing practice as distinct from the scope of the practice of medicine. Because of this overlap, we fundamentally recommend that the statute language continue to require that the advanced practice nurse prescriber must, in order to exercise the prescribing privilege, be in a collaborative relationship with a licensed physician

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who is actively practicing in the State of Kansas. The collaborative relationship must be one in which the physician is readily available for timely consultation and for patient referrals when needed.

Many have suggested that a collaboration requirement will undercut the goal of increasing access to primary care in underserved areas. We clearly do not believe this to be the case. The collaborative arrangement does not require that the physician and nurse be at the same location at all times, although some face-to-face interaction from time to time is desirable. In addition, other programs emphasizing the provision of care in underserved areas, most notably the "Rural Health Care Clinic" designation, ***requires a joint effort*** by both a physician and a nurse practitioner or other mid-level provider. Rural Health Clinic designation is not available to either physicians or to nurses practicing independently, but requires that both types of providers be working collaboratively. It should be clearly stated that the RHC designation also requires that the non-physician provider must be under the medical direction of a physician.

The Practice of Medicine: If advanced practice nurses practice only collaboratively, there would be no need for fully independent prescriptive powers. Implicit in the ability to independently prescribe is independent diagnosis, evaluation, and treatment. The prescription of a medication or any other medical treatment or test based on one's own medical diagnosis essentially defines "the practice of medicine," in this case by individuals prepared by training to be nurses, not physicians.

American Academy of Family Practice Position: The AAFP endorses a "team" concept in which the physician, as leader of the team, maintains the ultimate responsibility for an NPP's actions. The policy is intentionally vague in order to allow the individual MD-NPP team to develop supervision protocols that meet the needs of its situation. As a general matter, the policy requires that the quality of the rendered service be no less than that provided directly by the physician.

In the eyes of the AAFP, in a quotation from their January 1995 policy statement, "the ideal law establishes clear responsibility on the part of the supervising physician for the care provided by the NPP without being overly prescriptive so as not to preclude the responsible utilization of NPPs. Among provisions that ought to be specified in statute are: 1) a limit on the number of NPPs that may be supervised by a single physician (usually two); 2) a requirement that all delegated services be within the scope of practice of both the NPP and the physician; 3) a requirement that the supervising physician be immediately available, either in person or by telecommunications; 4) a requirement that supervision be explicitly transferred to another physician when the supervising physician is unavailable."

Existing Research: As outlined in a position paper published by the American College of Physicians in the Annals of Internal Medicine (1) the American Nurses Association sponsored a recent meta-analysis on studies of nurses in primary care roles. The authors of this study recommended that policy makers "encourage the continued and expanded use of nurse practitioners and certified nurse midwives as providers of primary care services to a wide variety of patient populations."(2) As the Office of Technology Assessment study notes,

"Many studies that have analyzed these relationships are methodologically flawed and none examine the quality of services provided without physician involvement."(3) It is therefore not possible to draw conclusions about independent nursing practice, neither independent prescribing of medications nor independent practice, from the available literature.

Education and Training: We believe that the language of HB 2194 is clear in its intent, and quoting from the bill, "The Board shall adopt a definition of expanded role under this subsection (c) (3) which is consistent with the education, training and qualifications required to obtain a certificate of qualification as an advanced registered nurse practitioner, which protects the public from persons performing functions and procedures as advanced registered nurse practitioners for which they lack adequate education, training, and qualification ....." In order for physicians to obtain prescribing privileges similar to that embodied in HB 2194, a physician must complete a minimum of five years of postgraduate training, including not only pharmacology but also an extensive background in basic medical sciences, and clinical training in diagnosing and treating medical diseases. In addition, after receiving a medical degree, a new physician must be supervised by a licensed physician for one year before obtaining a medical license and full prescriptive authority. Any lesser requirements for advanced registered nurse practitioners do not recognize the complexities of medicinal agents.

State Activity: It also merits noting that the vast majority of other states which authorize some form of prescriptive authority for advanced practice nurses require at least that the nurse be in a collaborative relationship with a physician. In 1994 alone, at least 135 new state laws were enacted that in some way expanded the scope of practice of non-physician providers. Only six states can be identified that, by statute, permit completely independent practice and prescribing by advanced practice nurses. The remaining states with expanded prescribing privileges adhere to either a limited formulary, or collaborative physician-NPP effort in which the physician must co-sign the order, or both.

In summary, the KAFP recommends and asserts the following points:

1. The KAFP supports expanded roles for nurse practitioners and physician assistants within a collaborative health care system that includes a physician who takes responsibility for the quality of care provided by the health care team.

2. The scope of practice of nurse practitioners should be evidence-based. To-date no such data exists that compares the care provided by nurse practitioners practicing independently with any other health care provider.

3. Until evidence shows that advanced practice nurses can provide high-quality health care services in independent practice arrangements without accountability to a physician, the KAFP cannot support independent practice of nurse practitioners in either independent practice structure or independent prescribing. Much evidence points to the movement of our country toward a greater use of integrated health care systems in which health care services are being delivered through managed prepaid arrangements. In this environment, an independently prescribing or practicing nurse practitioner is a step in the wrong direction.

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(1) Sox HC, Jr., Ginsberg JA, Scott D, et al. Physician Assistants and Nurse Practitioners, Ann Intern Med 1994; 121:714-716.

(2) Brown SA, Grimes DE. Nurse Practitioners and Certified Nurse Midwives (A Meta-Analysis of Studies on Nurses in Primary Care Roles). Washington DC: American Nurses Publishing, 1993.

(3) US Congress, Office of Technology Assessment, Nurse Practitioners, Physician Assistants and Certified Nurse Midwives: A Policy Analysis (Health Technology Study 37). OTA-HCS-37, Washington DC: US Government Printing Office, 1986.

KANSAS MEDICAL SOCIETY

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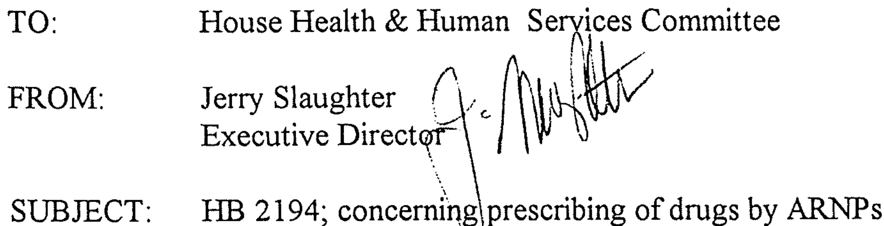
February 2, 1995



TO: House Health & Human Services Committee

FROM: Jerry Slaughter
Executive Director

SUBJECT: HB 2194; concerning prescribing of drugs by ARNPs

The Kansas Medical Society appreciates the opportunity to appear today as you consider HB 2194, which would allow advanced registered nurse practitioners to prescribe drugs independently.

At the outset, let me say that we have great respect for ARNPs, and all nurses, for that matter. They are important members of the health care team, and contribute substantially to making quality of care in our health system the gold standard of the world. We have been very supportive of efforts in the past to expand the traditional role of nurses, enhancing their ability to serve patients. Our laws governing ARNPs were among the first and most progressive in the country, and we have encouraged innovative, collaborative practices among physicians and nurses with advanced training.

However, we cannot support this bill. HB 2194 represents a significant expansion of the limited authority that ARNPs already possess to prescribe drugs within the context of written protocols. They are asking to be able to prescribe drugs independent of any physician involvement, something that, with all due respect, we do not believe their education and training prepares them for. It is one thing for a nurse, working side by side with a physician, to prescribe under written protocols. There is ample opportunity for teaching, review, collaboration and quality assurance efforts. If nurses are allowed to prescribe, *without limitation*, you have in effect granted them a license to practice medicine. Many physicians are beginning to wonder why they endured four years of medical school and three to six years of postgraduate residency training. If other members of the health care team are granted identical privileges without undergoing comparable training, it undermines the integrity of our system of regulation and education.

This is not a turf issue to us. It has to do with quality of patient care. When the legislature grants expanded privileges to a health care provider, it is the equivalent of saying the state has given its stamp of approval, assuring to the greatest extent possible a high standard of quality. The legislature's responsibility is especially great when it comes to making potentially dangerous drugs more available through a wider, less controlled network of prescribing professionals.

HOUSE H&HS COMMITTEE
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Attachment 18-1

Does anyone believe that there are not enough avenues available for Kansans to access prescription drugs under the current system? Will this legislation improve quality, or at the minimum, preserve it? Have the ARNPs shown that they have the necessary education and clinical training to make *independent* decisions concerning appropriate drug therapy? Does the Board of Nursing have the knowledge and expertise to properly regulate ARNP prescribing, clearly a new role for it? These are questions which should be answered , we believe, before this legislation is enacted.

As we mentioned at the outset, we have historically supported the efforts of the advanced registered nurse practitioners. We believe they are important members of the health care team, but unfortunately, cannot support their efforts in this bill. We urge you to reject HB 2194. Thank you for giving our comments your consideration.

Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

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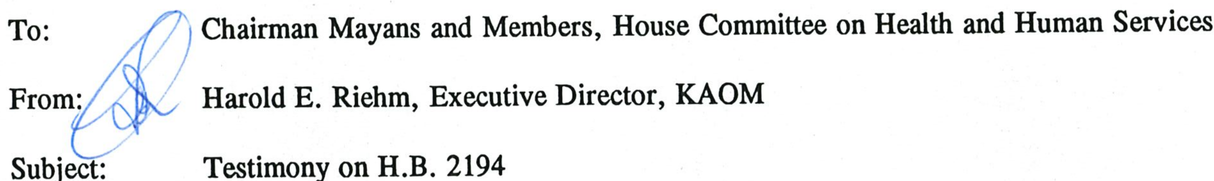
February 2, 1995



To: Chairman Mayans and Members, House Committee on Health and Human Services

From: Harold E. Riehm, Executive Director, KAOM

Subject: Testimony on H.B. 2194

Thank you for this opportunity to express our views on H.B. 2194. We appear today to express serious reservations about the content of this Bill.

Advanced Registered Nurse Practitioners are valued members of the health care milieu throughout Kansas. Many of the physicians who considered our position on this Bill chose to oppose it only with great reluctance, because many of them work closely and value their professional relationships with ARNPs.

Yet it is that working relationship, health care delivery as a team, that is a primary concern of ours--that granting ARNPs this degree of independence in the conduct of a critical part of the health care delivery package, will prove disruptive to that team approach.

We summarize other reasons for opposing content of H.B. 2194 below. I will be pleased to comment further as you wish.

(a) We have concerns on the sufficiency of education and training in pharmacology, not just by itself, but as to how it integrates with the overall practice of diagnosis, treatment alternatives, drug interrelationships, and so forth. Pharmacology does not exist separate and distinct from other important components of the practice of medicine.

(b) We are particularly concerned regarding the qualifications of those ARNPs now in practice, who would be automatically granted independent prescription authority. There is no certification or examination process provided that would determine their qualifications to start performing this practice of medicine.

(c) KAOM supported the change in the law that permitted ARNPs to "transmit" prescriptions under protocol. The key, however, was that the ultimate responsibility would remain that of the supervising physician. We think the protocol process permits considerable flexibility. In cases where questions arise that <u>need</u> and <u>should</u> have a physician's input, consultation is just a phone call away. We think this is a small inconvenience to pay for the additional protection to the public it provides.

(d) Section 2 of the Bill requires ten additional hours of continuing education. It does not require that this be in pharmacology or drug therapy. Much of physician continuing education is drug therapy oriented.

(e) No doubt a case will be made that this will improve access to health care in areas experiencing shortages of physicians or other providers. It may, though we remain curious as to how many of the ARNPs now practicing in Kansas are doing so in rural areas, particularly those with serious shortages in delivery of health care services.

In conclusion, we applaud the contributions made by ARNPs in Kansas. However, we think present provisions for transmitting prescriptions under protocol with a physician, adequately address the matter, in a way that both protects the public and provides considerable flexibility for ARNPs in the conduct of their practices. We question if increased access if any, is sufficient to change the system that now seems to work with considerable success.

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2-2-1995
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KANSAS ACADEMY OF PHYSICIAN ASSISTANTS (KAPA)
February 2, 1995

Testimony before HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES
House Bill No. 2194

Testimony prepared by Steve Asbury, RPA, Co-Chair of KAPA Legislative Committee

Mr. Chairman and Members of the Committee:

My name is Helen Stephens, representing the Kansas Academy of Physician Assistants, and speaking for Steve Asbury.

Midlevel practitioners have a long record of providing primary health care services to many Kansans. These services are often provided to the poor and underserved or in the rural areas of our state.

We feel all midlevel practitioners should practice under the general supervision and direction of a licensed physician. This relationship has worked well in Kansas for more than twenty years and it should be preserved.

Advance Registered Nurse Practitioners are midlevel practitioners who perform acts and provide services that constitute the practice of medicine. We strongly feel they should be placed under the authority of the Kansas State Board of Healing Arts.

We, therefore, respectfully oppose House Bill 2194.

Thank you for the opportunity to speak to you today. I will stand for questions.

HOUSE H&HS COMMITTEE
2-2-1995
Attachment 20