

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 March 15, 1995 in Room 423-S of the State Capitol.

All members were present except: Representative Brenda Landwehr - excused  
Representative Gary Merritt - excused

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

Conferees appearing before the committee:

Lawrence T. Buening, Jr., Executive Director, Kansas Board of Healing Arts  
Richard Morrissey, Director, KDHE Bureau of Local and Rural Health Systems  
Harold Reihm, Kansas Association of Osteopathic Medicine  
John Gravino, Legal Counsel, Kansas Board of Healing Arts

Others attending: See Guest List, Attachment 1.

The minutes of the committee meeting held on March 14, 1995 were approved.

Chairperson Mayans called the attention of the members to the revised committee agenda for this week and next week's agenda which includes hearings on **SB 57** (athletic trainers registration act) and **SB 263** (long-term care ombudsman access to records).

Chairperson Mayans also noted that the Subcommittee on **SB 8** (definitions of adult care homes) met today and the staff is working on the bill and we will probably consider action on the bill tomorrow.

**SB 271 - Creating under healing arts act inactive license, federally active license, postgraduate permit and limited permit**

Mr. Buening, speaking on behalf of the State Board of Healing Arts, testified in support of the bill. He stated the board has 15 members; credentials 10 health care professions with some 13,500--either licensed, registered or certified. Mr. Buening introduced one of the Board members and members of the agency's staff who were in attendance.

Mr. Buening described the provisions of the bill, as shown on Attachment 2. **SB 271** concerns physicians, osteopaths and chiropractors licensed under the Healing Arts Act. Other health care providers regulated by the board are covered by other statutes. Concerning the new subsection (h) in Section 1, Mr. Buening stated that Representative Graeber requested it be included to resolve differences that have arisen between federal and state laws which will allow health care professionals in federal service and those licensed in other states to provide gratuitous services at indigent health clinics.

Because of the recent Kansas Supreme Court's opinion and its interpretation of K.S.A. 65-2836(i), the board has proposed balloon amendments to add two sections to the bill to establish procedures that will provide licensees with appropriate due process prior to the issuance of an order for examination of an impairment without the board first initiating formal disciplinary proceedings.

Mr. Morrissey presented testimony in support of **SB 271** and the proposed amendments. KDHE recommends passage of the bill (see Attachment 3). Mr. Morrissey said in reality it does not affect a great number of physicians; perhaps only 2 or 3, but there are 120 federal physicians in the state and perhaps (if this bill is enacted) local organizations could recruit more of them to volunteer.

Mr. Riehm, testified that the Osteopathic Association is supporting the bill. The association is pleased that the changes may be made. In another comment, he commended Mr. Buening and the fine staff of the Healing Arts Board for their service to the state and particularly for keeping the osteopaths informed and allowing them to participate in the development of this bill and taking part in the deliberations.

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MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S State Capitol, at 1:30 p.m. on March 15, 1995

Chairperson Mayans then asked Mr. Buening to explain the differences between exempt and inactive licenses. Mr. Buening stated that a physician on inactive status cannot practice in the state. If actively practicing in the state, the physician must have professional liability insurance and maintain continuing education. Those in exempt status can reactivate for the period(s) of time they will be practicing (such as covering for someone on vacation). These licensees may, for example, take sabbaticals because of a personal situation and should have the leeway to do so.

Chairperson Mayans asked why Section 3 is changing the grading system from a percentage grade to a normative and criterion based scoring system--do we want mediocrity? Mr. Buening described the new scoring system and stated it has been determined to be the best measure of the knowledge of an individual. It is a system being followed nationwide.

Chairperson Mayans asked if there was objection to reducing the fee for exempt and inactive licenses to \$30 each? Mr. Buening stated the \$150 listed in the bill would be the statutory limit; presently the fee is set at \$115 by the board. Based on the comments in the Senate subcommittee, there were questions about the board looking at the fee fund balance and considering reductions in fees. The only comment Mr. Buening had was that the exempt and inactive fees should not be the same. It would affect about 2300 exempt and 1546 inactive licensees. Because of the number of licensing transactions for those exempt licensees, Mr. Buening did not believe it should be reduced below \$115.

Representative Geringer commented that the concept to allow federal employees to provide gratuitous services at indigent health clinics is commendable. Representative O'Connor asked about the fee proposed to be charged for those federal physicians who will volunteer and wondering if that fee could be waived for them. Mr. Buening replied that the original draft of the bill was to change the law in a manner that a person could perform charitable services without any license. The board decided this was not good and felt it best to license them.

Representative O'Connor asked why the fee was so high for someone who does not keep a current address on file with the board. Mr. Buening said that the post office will only forward mail to someone who's moved for a short length of time. The fee set in this bill is not to be punitive but to cause address changes to be filed with the board.

Ms. Correll asked if the Supreme Court basically decided that the board had to take some sort of action against a licensee before ordering a mental examination. Mr. Buening replied that is the syllabus. Ms. Correll reacted that in a sense this new language will allow the board to use it as a threat to someone. Mr. Buening stated the board has to find a reasonable basis for suspension and that such a licensee would be able to appeal either to the board or to a court before complying with the order.

Representative Haley related he was personally aware of some allegations made against physicians in his community and that the board has encouraged what has been characterized as a witch hunt against these individuals. He asked if section 3 expands the board's ability to engage in an investigation of a particular physician or licensee for probable cause? Mr. Buening answered "yes." Representative Haley stated he was hesitant to vote on certain aspects of the bill where the board could act in an alleged situation without having a formal complaint, and with section 9 which gives a tremendous ultra vires power to the board and which may allow the board to act capriciously. Mr. Buening stated that subsection (c) of section 9 allows the careful review of those situations and, in his opinion, provides the licensees with greater protection than that in the present statutes.

Mr. Furse stated that the Supreme Court's decision is the law and wondered if there was going to be an appeal? Mr. Buening said there would be no appeal on the decision. Mr. Furse said he understood that section 9 would be used in emergency situations and prior to filing of a formal procedure. Mr. Buening replied that was correct, saying that emergency hearings are based on independent facts. The board would not use an emergency hearing to issue an order under this section.

Mr. Furse pursued the use of emergency orders and Mr. Gravino, Board Counsel, answered that it is needed for situations where a physician is going into surgery and is impaired (such as by alcohol or drugs)--that the board has some real concerns in this regard. The board would not want the Legislature to say we could not have an emergency procedure. Representative Geringer observed that--about 180 degrees from Representative Haley's position--his concern is that the board may be too lenient in acting on such cases.

The hearing was closed on **SB 271**. Representative Kirk stated she was having some problems with the bill and wondered if we should take time for study and then act on the bill. Chairperson Mayans replied that he respected her comments as well as Representative Haley's and, due to their concerns, he suggested that the

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amendments to add sections 8 and 9 will not be considered at this time.

Representative O'Connor asked if it would be possible to add a phrase to exempt those who provide gratuitous services at indigent health clinics from paying the proposed \$30 fee shown in section 4(q), such as by adding "This fee may be waived in the case of a charitable health care provider" to the section. Chairperson Mayans noted there is some administrative costs involved in administering the permits. Representative O'Connor then placed her suggestion in the form of a motion to add the phrase. There was no second to the motion. The motion failed.

Thereupon, Representative Geringer moved, and Representative Rutledge seconded, that **SB 271** be passed. The motion carried unanimously.

The Chairperson noted that the committee will hear **SB 216** (marriage and family therapist registration without examinations); **Sub SB 293** (annual report on health care data by secretary of health and environment); **SB 151** (licensure of nurses and mental health technicians; information from KBI); and may take action on bills previously heard.

The meeting was adjourned at 2:45 p.m.

The next meeting is scheduled for March 16, 1995.

HOUSE COMMITTEE ON HEALTH  
AND HUMAN SERVICES COMMITTEE  
GUEST LIST  
MARCH 15, 1995

NAME	REPRESENTING
Bob Hayes	HCSP
John Fraino	BHA
Larry Buening	Bd of Healing Arts
Joel Fugate	KCA
KEITH R LANDIS	CHRISTIAN SCIENCE COMM ON PUBLICATION FOR KS
Rich Gutierrez	Health Midwest
D. G. Skitt	HA Bd
Mark Stafford	"
Charles Ahlbert	"
Gene O. Debra	KADAM
Kathy Pfeiffer	HAB-UT.
Dotty Pearson	HA Bd
John Federico	Pete McMill & Assoc.
Chip Wheeler	KS Medical Soc.
Jon Newman	KS Governmental Consulting
Richard Morrissey	KDHE
Mike Meacham	NCA-KS

# 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

## MEMORANDUM

**TO:** House Committee on Health and Human Services

**FROM:** Lawrence T. Buening, Jr.  
Executive Director

**DATE:** March 14, 1995

**RE:** SENATE BILL NO. 271

Thank you for the opportunity to appear before you on behalf of Senate Bill No. 271. This bill makes several changes to the types of licenses issued to individuals under the Healing Arts Act.

Section 1 amends K.S.A. 65-2809. The amendments to subsection (b) delete existing language adopted in 1976 regarding the establishment of continuing education requirements and provide that such requirements be established by rules and regulations adopted by the Board as a whole. Subsection (d) is amended to require the renewal form be mailed to the last mailing address rather than place of residence and would enable the Board to cancel the license 30 days following date of expiration without having to follow any hearing process under the Kansas Administrative Procedure Act. Subsection (e) would enable the Board to establish certain additional testing or training for an individual who wishes to reinstate but has not been in practice the last 2 years. Subsection (f) likewise enables the Board to establish certain additional testing or training for an individual who has an exempt license for more than 2 years and has not been actively practicing. Subsection (g) creates the category of inactive license which has been recognized by the Board since 1978 and discussed in Attorney General Opinion No. 78-249.

New subsection (h) along with New Section 5 addresses an issue which has arisen because of differences between federal and state laws. The purpose of these changes is to enable federal employees to provide gratuitous services at indigent health clinics. Under

### HOUSE H&HS COMMITTEE

3-15-1995

Attachment 2-1

MEMBERS OF BOARD  
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PITTSBURG  
RONALD J. ZOELLER, D.C., VICE-PRESIDENT  
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HOWARD D. ELLIS, M.D., LEAWOOD  
EDWARD J. FITZGERALD, M.D., WICHITA  
JOHN P. GRAVINO, D.O., LAWRENCE

GRACIELA A. MARION, EUDORA  
LAUREL H. RICKARD, MEDICINE LODGE  
RONALD N. WHITMER, D.O., ELLSWORTH  
ANNE WIGGLESWORTH, M.D., MANHATTAN  
REX A. WRIGHT, D.C., TOPEKA  
DONALD D. YODER, D.P.M., WICHITA

current federal directives and rules and regulations, persons in military service or federal employment must maintain an active state license meeting the most rigorous of the licensing requirements imposed by the state on licensees actively practicing in that state. As a result and as discussed in Attorney General Opinion No. 94-91, persons holding an exempt license do not meet the federal licensure requirements. This issue has arisen because of the desire of individuals in military or federal service to provide gratuitous services outside of their federal employment. Currently, an individual who holds only a Kansas license must maintain it on an active status. The license may not be placed on an exempt status and the individual must, if engaged in any charitable services outside of federal employment, maintain professional liability insurance in compliance with state law. Subsection (h) addresses this issue and would enable individuals holding a federally active license to provide services as a charitable health care provider. New Section 5 addresses the issue of those individuals who are licensed in another state but not Kansas. This section would allow these persons to obtain a limited permit in Kansas for the specific purpose of providing services as a charitable health care provider. Subsection (h) and New Section 5 would clear the way for individuals to provide services at indigent health clinics and provide these clinics with greater access to physician services. It should be noted, however, that these changes only accomplish one step. For these persons to provide services without obtaining insurance, amendments to K.S.A. 75-6102 will also be required. Therefore, following the hearing in the Senate, section 7 was added to amend K.S.A. 75-6102 and include persons holding federally active licenses and limited permits within the definition of charitable health care provider.

Section 2 amends K.S.A. 65-2811 and addresses an issue raised by Jane S. Lauchland, M.D., the Director of Psychiatry Residency Training at KU Medical Center. Dr. Lauchland's letter is attached. The amendments to this statute delete the one-year temporary permit authorized under previous subsection (a)(3) and change the terminology from temporary permit to postgraduate permit for those engaged in postgraduate training.

Section 3 of the bill amends K.S.A. 65-2828 to delete a percentage score as being the statutorily required passing grade and replaces the statutory requirement with the ability of the Board to set the passing grade by rule and regulation. In light of current usage of normative and criterion based scoring, percentage grades are no longer appropriate measures of passage under any of the examinations administered by the board. This section also specifies that the Board may require an individual to undertake additional study prior to retaking the examination if they have failed a certain number of times as established by rule and regulation.

Section 4 merely puts a statutory maximum fee for the newly created inactive license provided for in Section 1 of the bill. By creating a separate status of inactive license, the Board will be



able to set a reduced renewal fee for inactive license as opposed to a fully active license. The Board currently assesses an annual renewal fee of \$115 for an exempt license and \$150 for renewal of an active license. It is anticipated that the renewal fee for the inactive license will be approximately the same as the fee established for exempt licenses. If this were to occur, the 1,546 licensees currently on inactive status would pay \$35 less for renewal resulting in a total savings of \$54,110. A statutory maximum is also created for the postgraduate permit created in section 2 and the limited permit authorized in New Section 5.

New Section 5 creates the limited permit which was discussed under the amendments contained in Section 1.

New Section 6 of the bill imposes a duty on each licensee to notify the Board of a change of address within 30 days and allows the imposition of a fine for failure to meet this obligation.

Section 7 of the bill as amended by the Senate Committee contains the amendment to K.S.A. 75-6102 which also was discussed with the amendments to K.S.A. 65-2809 in Section 1.

Section 8, in addition to repealing the statutes being amended, would also repeal K.S.A. 65-2829 which requires that the identity of the individual taking the examination not be disclosed. In light of the present usage of standardized tests, this is both unnecessary and impractical. A copy of K.S.A. 65-2829 is attached.

Finally, the Board is requesting balloon amendments to Senate Bill No. 271. The proposed amendments would add two additional sections to the bill.

Proposed Section 8 would amend K.S.A. 65-2836(i) and proposed Section 9 would amend K.S.A. 65-2842 in its entirety. These amendments are offered to address the Supreme Court's interpretation of K.S.A. 65-2836(i) set forth in Corder v. Kansas Board of Healing Arts. Syllabus paragraphs 2, 3 and 4 of the opinion read as follows:

**PARAGRAPH 2. "K.S.A. 65-2836(i) of the Kansas Healing Arts Act, which grants the Kansas Board of Healing Arts the authority to compel a licensee to submit to mental examination by such persons as the board may designate, may not be used in emergency proceedings; the authority granted applies after the commencement of formal proceedings against a licensee."**

**PARAGRAPH 3. "Reading K.S.A. 65-2838(c), K.S.A. 65-2836(i) and K.S.A. 77-536(e) together, it is clear the legislature intended that the order for mental examination issue after commencement of a formal proceeding by the Kansas Board of Healing Arts."**

PARAGRAPH 4. "An order for mental examination under the provisions of K.S.A. 65-2836(i) may issue only after the commencement of a formal proceeding in accordance with the Healing Arts Act and the Kansas Administrative Procedure Act."

The Board questions whether the Court's interpretation, in actuality, expresses the Legislature's clear intent. Mental or physical examinations or drug screens can be an important investigative tool to assist the Board in determining if grounds for discipline exist. The filing of a formal proceeding against a doctor can, in and of itself, have an adverse impact on the doctor's career and ability to practice their profession. The proposed amendments to K.S.A. 65-2842 would establish procedures to provide licensees with appropriate due process prior to the issuance of an order for examination without the necessity of the Board first initiating formal disciplinary proceedings. The proposed amendments to K.S.A. 65-2842 actually provide more protection than required under the current statutes as interpreted in Corder.

Thank you very much for allowing me time to appear before you in support of Senate Bill No. 271. The Board respectfully requests your favorable consideration of the balloon amendments and that Senate Bill No. 271 as so amended be recommended favorably for passage. I would be happy to respond to any questions.

bj



# The University of Kansas Medical Center

School of Medicine  
Department of Psychiatry

December 5, 1994

Kansas Board of Healing Arts  
ATTN: Charlene Abbott  
Licensing Administrator  
235 South Topeka Blvd.  
Topeka, KS 66603

Dear Ms. Abbott:

I am writing pursuant to our phone conversation this morning regarding the Board's policy that requires International Medical Graduates, who have already completed FMGEMS, to pass Steps 1 and 2 of the USMLE during their first year of residency training.

As you are aware, I am the Director of General Psychiatry Residency Training at the University of Kansas Medical Center in Kansas City. Over the past several years, it has become increasingly difficult throughout the nation to recruit qualified physicians to the field of psychiatry; a situation of grave concern given the marked shortage of psychiatrists in the country, and particularly large portions of the state of Kansas.

We are finding that the policy of the Kansas Board regarding passage of the USMLE within the PGY I year is contributing additional hardship in recruitment of resident applicants. Potential resident candidates understandably lean towards residency positions in other states that do not impose this additional pressure, and the potential for sudden dismissal from the program if they fail to successfully complete Steps 1 and 2 within the first year.

In addition, several of our current PGY I residents are considering transferring to out-of-state programs for their PG II year, to avoid the uncertainty involved in awaiting results of the USMLE that they are scheduled to take in the spring of 1995. The personal cost to our residents, who are in the position of having to take, and successfully pass the exams within this time frame, is enormous. They too have commitments to their childrens' schooling, housing, spouses' employment, and financial obligations etc. Intensive studying, which this exam obviously requires (borne out by a startling drop in pass rate by American medical school graduates), combined with the pressures of internship and the mandate to pass take a great emotional toll.

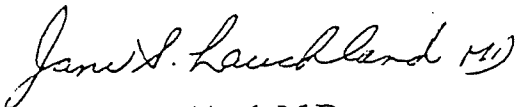
As a program, we are not only facing the potential for unfilled PGY 1 residency slots in July of 1995, but also the possibility of losing some of our current (and I might add excellent) PGY I residents at a time when it is too late to compensate by adjusting our request for additional residents through the National Resident Matching Program (deadline February 1995). We are currently involved in interviewing for our July 1995 PGY I class, and I find it very difficult to answer questions from International Medical Graduate applicants who query the discrimination by the Kansas State Board of Healing Arts as compared to other states who do not share this policy.

Obviously this problem is an interim one, given that within several years all IMG's will have been required to pass both steps of the USMLE in order to qualify for ECFMG certification. It is the current applicants, who met prior ECFMG requirements with FMGEMS, who are caught in this dilemma.

We ask that the Board address this issue at the December 9 meeting, as time is of the essence. We request reconsideration of the imposed time parameter of one year for successful completion of Steps 1 and 2 of the USMLE, thus allowing the IMG applicants in question to retain their temporary license as long as they are actively involved in our training program.

If you require any further information or would like me to appear before the Board at the December 9 meeting, please do not hesitate to contact me at 913-588-6412. We appreciate your consideration of this matter and support of our program.

Sincerely,



Jane S. Lauchland, M.D.  
Director of Psychiatry Residency Training  
Clinical Assistant Professor  
Director of Adult Inpatient Services

JSL:cld

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DEC 1 1995

**65-2829.** Written examinations; identity of applicants concealed. All examinations shall be in writing, and the identity of persons taking the same shall not be disclosed upon the examination paper in such a way as to enable the board to know by whom written.

History: L. 1957, ch. 343, § 29; July 1.

Sec. 8. K.S.A. 65-2836 is hereby amended to read as follows:  
65-2836. A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

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Subsections (a) through (h) not amended.

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(i) The licensee has the inability to practice the branch of the healing arts for which the licensee is licensed with reasonable skill and safety to patients by reason of illness, alcoholism, excessive use of drugs, controlled substances, chemical or any other type of material or as a result of any mental or physical condition. In determining whether or not such inability exists, the board, upon reasonable suspicion of such inability and following the procedures prescribed in K.S.A. 65-2842 and amendments thereto, shall have authority to compel a licensee to submit to mental or physical examination or drug screen, or any combination thereof, by such persons as the board may designate. ~~To determine whether reasonable suspicion of such inability exists, the investigative information shall be presented to the board as a whole, to a review committee of professional peers of the licensee established pursuant to K.S.A. 65-2840c and amendments thereto or to a committee consisting of the officers of the board elected pursuant to K.S.A. 65-2818 and amendments thereto and the executive~~

~~director appointed pursuant to K.S.A. 65-2878 and amendments thereto, and the determination shall be made by a majority vote of the entity which reviewed the investigative information. Information submitted to the board as a whole or a review committee of peers or a committee of the officers and executive director of the board and all reports, findings and other records shall be confidential and not subject to discovery by or release to any person or entity. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such examination or drug screen, or both. A person affected by this subsection shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of the healing arts with reasonable skill and safety to patients. For the purpose of this subsection, every person licensed to practice the healing arts and who shall accept the privilege to practice the healing arts in this state by so practicing or by the making and filing of an annual renewal to practice the healing arts in this state shall be deemed to have consented to submit to a mental or physical examination or a drug screen, or any combination thereof, when directed in writing by the board and further to have waived all objections to the admissibility of the testimony, drug screen or examination report of the person conducting such examination or drug screen, or both, at any proceeding or hearing before the board on the ground that such testimony or examination or drug screen report constitutes a privileged communication. In any proceeding by the board pursuant to the provisions of this subsection, the record of such board~~

~~proceedings involving the mental and physical examination or drug screen, or any combination thereof, shall not be used in any other administrative or judicial proceeding.~~

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Subsections (j) through (bb) not amended.

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Sec. 9. K.S.A. 65-2842 is hereby amended to read as follows:  
65-2842. ~~Whenever the board directs, pursuant to subsection (i) of K.S.A. 65-2836 and amendments thereto, that a licensee submit to a mental or physical examination or drug screen, or any combination thereof, the time of the date of the board's directive until the submission to the board of the report of the examination or drug screen, or both, shall not be included in the computation of the time limit for hearing prescribed by the Kansas administrative procedure act.~~ (a) Every person licensed to practice the healing arts, by so practicing or by filing an application for an original, renewal, or reinstated license shall be deemed to have consented to submit to a mental or physical examination or drug screen, or any combination thereof, when ordered by the board pursuant to this section upon a finding of reasonable suspicion that such person has the inability to practice the healing arts with reasonable skill and safety to patients by reason of physical or mental illness or condition, or use of alcohol or drugs, and further to have waived all claims to any privilege or objections to the admissibility of the testimony, drug screen or examination report of the person conducting such examination or drug screen at any proceeding or

hearing before the board.

(b) The board may order a person to submit to a mental or physical examination or drug screen, or any combination thereof, only after giving such person notice and an opportunity for hearing under the provisions of the Kansas administrative procedure act. A proceeding for examination or drug screen may be commenced as part of an investigation by the board, during discovery in a formal proceeding, or in response to an application for an original, renewal or reinstated license.

(c) If the order for examination or drug screen is issued by the board as presiding officer such order shall be effective upon service, and the licensee may seek judicial review without seeking further administrative remedies. If the order for examination or drug screen is issued by a presiding officer other than the board, such order shall become effective 15 days following service of the order. A person affected by such order may seek review by filing a petition for review with the board prior to the effective date of the order. The filing of a timely petition for review shall stay the order pending review by the board. Following review by the board, a petition for judicial review may be filed without first seeking further administrative remedies. The filing of a timely petition for judicial review shall stay the order pending completion of judicial review. Upon completion of review, or when a petition for review would no longer be timely, the presiding officer may complete the proceeding to resolve any remaining issues.

(d) Whenever an order of the board which requires that a



licensee or applicant submit to an examination or drug screen pursuant to this section is reviewed, or whenever a licensee or applicant who is required to submit to such an examination or drug screen refuses to comply with such order, the time from the date of the order until the date the order is complied with, or until review is complete, whichever is latest, shall not be included in the computation of any time limitations under the Kansas administrative procedure act.

(e) The presiding officer may, and upon request of a party shall, hold any hearing under this section in closed session, except that the board shall cause the proceeding to be recorded.

(f) All orders, reports, records, memoranda, pleadings, exhibits and transcripts of proceedings related to a proceeding under this section shall be privileged and confidential, and shall not be subject to discovery, subpoena or other means of legal compulsion for release to any person or entity and shall not be admissible in any civil or administrative action other than a disciplinary proceeding by the board, except that such information may be disclosed as authorized by K.S.A. 65-2898a and amendments thereto.

(g) This section shall not be construed to prohibit the board from taking such emergency action as necessary to suspend or temporarily limit a license pursuant to K.S.A. 65-2838 and amendments thereto.

SENATE BILL No. 271

By Committee on Public Health and Welfare

2-9

10 AN ACT concerning the Kansas healing arts act; creating a designation  
11 of inactive license; creating a designation of federally active license;  
12 authorizing issuance of a postgraduate permit; creating a designation  
13 of limited permit; requiring notice of address change; amending K.S.A.  
14 65-2811, 65-2828 and 65-2852 and K.S.A. 1994 Supp. 65-2809 and 75-  
15 6102 and repealing the existing sections; also repealing K.S.A. 65-  
16 2829.

,65-2836, 65-2842

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

19 Section 1. K.S.A. 1994 Supp. 65-2809 is hereby amended to read as  
20 follows: 65-2809. (a) The license shall expire on the date established by  
21 rules and regulations of the board which may provide renewal throughout  
22 the year on a continuing basis. In each case in which a license is renewed  
23 for a period of time of less than one year, the board may prorate the  
24 amount of the fee established under K.S.A. 65-2852 and amendments  
25 thereto. The request for renewal shall be on a form provided by the board  
26 and shall be accompanied by the prescribed fee, which shall be paid not  
27 later than the expiration date of the license.

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

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1 person meets the definition of medically indigent person as defined  
2 by this section or to a person receiving medical assistance from the  
3 programs operated by the department of social and rehabilitation  
4 services, and who is considered an employee of the state of Kansas  
5 under K.S.A. 1994 Supp. 75-6120, and amendments thereto; or

6 (2) the secretary of health and environment and who, pursuant  
7 to such agreement, gratuitously renders professional services in  
8 conducting children's immunization programs administered by the  
9 secretary; or

10 (3) a local health department or indigent health care clinic,  
11 which renders professional services to medically indigent persons  
12 or persons receiving medical assistance from the programs operated  
13 by the department of social and rehabilitation services gratuitously  
14 or for a fee paid by the local health department or indigent health  
15 care clinic to such provider and who is considered an employee of  
16 the state of Kansas under K.S.A. 1994 Supp. 75-6120 and amend-  
17 ments thereto. Professional services rendered by a provider under  
18 this paragraph (3) shall be considered gratuitous notwithstanding  
19 fees based on income eligibility guidelines charged by a local health  
20 department or indigent health care clinic and notwithstanding any  
21 fee paid by the local health department or indigent health care  
22 clinic to a provider in accordance with this paragraph (3).

23 (g) "Medically indigent person" means a person who lacks re-  
24 sources to pay for medically necessary health care services and who  
25 meets the eligibility criteria for qualification as a medically indi-  
26 gent person established by the secretary of health and environment  
27 under K.S.A. 1994 Supp. 75-6120, and amendments thereto.

28 (h) "Indigent health care clinic" means an outpatient medical  
29 care clinic operated on a not-for-profit basis which has a contrac-  
30 tual agreement in effect with the secretary of health and environ-  
31 ment to provide health care services to medically indigent persons.

32 (i) "Local health department" shall have the meaning ascribed  
33 to such term under K.S.A. 65-241 and amendments thereto.

34 Sec. 7 & 8. K.S.A. 65-2811, 65-2828, 65-2829 and 65-2852 and K.S.A.  
35 1994 Supp. 65-2809 and 75-6102 are hereby repealed.

36 Sec. 8 & 9. This act shall take effect and be in force from and after its  
37 publication in the statute book.

Insert Sec. 8 & 9 (see attached)

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65-2836, 65-2842

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State of Kansas

Bill Graves



Governor

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**Department of Health and Environment**

James J. O'Connell, Secretary

Testimony presented to

House Committee on Health and Human Services

by

The Kansas Department of Health and Environment

Senate Bill No. 271

Senate Bill No. 271 would address the current problem of federally active licensees being unable to volunteer as Charitable Health Care Providers. We are aware of several cases where willing federal physicians were unable to donate their services to clinics because they did not hold licenses in Kansas. We commend the Board of Healing Arts for moving to resolve this problem.

Senate Bill No. 271 as amended creates a new category of federally active license for physicians originally licensed in Kansas and serving in a federal capacity and a new limited permit allowing federal and other physicians licensed in another state to serve as charitable health care providers. The federally active license would also allow the licensee to serve as a charitable health care provider. Neither category would require the licensee to participate in the Health Care Stabilization Fund.

**Recommendation:** The Kansas Department of Health and Environment respectfully requests that the Committee report Senate Bill No. 271 as amended favorably for passage.

Testimony presented by: Richard Morrissey  
Director  
Bureau of Local and Rural Health Systems  
March 15, 1995

**HOUSE H&HS COMMITTEE**  
**3 - 15 - 1995**  
**Attachment 3**