

Approved: 2-13-96
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on February 8, 1996 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department
Bill Wolff, Legislative Research Department
Norman Furse, Revisor of Statutes
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Patsy Johnson, Kansas State Board of Nursing
Canda Byrne, Kansas State Nurses Association
Joseph P. Conroy, Kansas Association of Nurse Anesthetists
James Kindscher, M.D., Kansas Society of Anesthesiologists
Jerry Slaughter, Kansas Medical Society

Others attending: See attached list

Hearing on SB 152 Registered nurse anesthetists licensure

Patsy Johnson, KSBN, testified before the Committee in support of SB 152 which is a carry-over bill from the 1995 legislative session with changes as noted in her written testimony. Ms. Johnson submitted a balloon of the bill showing proposed amendments with two new provisions in Section 8, (g) which would permit RNs working in critical care units of hospitals to maintain patients on low dose anesthetic agents, and (h) would permit ARNPs to use digital blocks in the fingers or toes. Ms. Johnson also requested an additional change be added to the balloon amendments of the bill that would be in concert with SB 538 relating to renewal of a temporary permit to practice nurse anesthesia not to exceed 120 days. (Attachment 1) Committee discussion related to established protocols and liability insurance for nurse anesthetists.

Canda Byrne, KSNA, expressed support for SB 152 and in particular to the proposed amendments to K.S.A. 65-1163, Section 8 (g) and (h) of the bill. (Attachment 2)

Joseph P. Conroy, KANA, provided testimony in support of SB 152 where proposed changes were made in the Registered Nurse Anesthetists statutes including modification in the authorization language. (Attachment 3) Committee discussion related to liability/lawsuits and certification of ARNPs.

James D. Kindscher, M.D., President-elect of the Kansas State Society of Anesthesiologists expressed concern with Section 8 (h) provision that was proposed by the Kansas State Board of Nursing. Dr. Kindscher noted that digital blocks are medical procedures and should be administered under the supervision of a physician and recommended inclusion of language requiring these medical procedures be performed on the order of or under the supervision of a physician. (Attachment 4)

Jerry Slaughter, KMS, submitted written testimony in reference to SB 152 and noted he could support the bill if additional language in Section 8 (h) be added relating to the administration of a digital block when under the supervision of a person licensed to practice medicine and surgery. Mr. Slaughter also called attention to proposed language in the bill dealing with liability coverage which already applies. (Attachment 5)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S
Statehouse, at 10:00 a.m. on February 8, 1996.

Hearing on SB 538 - Board of nursing authorization to issue exempt licenses and collect certain fees

Patsy Johnson, KSBN, testified in support of SB 538 which creates an exempt license for some nurses who do not want to carry an active license in Kansas but still want to nurse in charitable health care settings. The bill also clarifies statutory language for delegation by nurses in school settings, Board approval of continuing nursing education offerings, and situations when nurses should not delegate. (Attachment 6) Committee discussion related to rules and regulations and the nurse delegation process.

Because of lack of time, continued hearing on SB 538 will be held February 14, 1996.

Approval of minutes

Senator Ramirez made a motion to approve the Committee minutes of January 30, 31 and February 1, 1996, seconded by Senator Papay. The motion carried.

Adjournment

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for February 12, 1996.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: 2-8-96

NAME	REPRESENTING
JOE CONROY EMPORIA	KS ASSOC NURSE ANESTHETISTS
Maresa Neer Prairie Village	KS Assoc. Nurse Anesthetists
Steve Clifts Topeka	KS ASSOC NURSE ANESTHETISTS
Meddenger	KONE / KHA
Kay Hale	KHA
Mareha Butler	Southwestern College
Jackie Bingham	Southwestern College
Billie Bryant	Research College of Nursing
Tracy Arroyo	"
Colleen Cioplot	"
Amy McLean	"
Daisy Berry	Dodge City Community College
Julie Harrill	Research College of Nursing
Catherine Bauer	W. Lang Perdue II, MD
Jane Greene	KSNA
Kerry Motzsch	DCCC
Jeri Howe	DCCC-(KSNA) Dodge City, KS
Jennifer Carlone	DCCC (KSNA) Dodge City, KS
Michelle Studman	DCC (KSNA)

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 2-8-98

NAME	REPRESENTING
Stacy L. Smirl	Newman Division of Nursing - TSU
BRAD KOEHN	
John Federico	Pete Mcbill & Assoc
Carolyn C. Anderson - Topoka	RN - KSNA
Rebecca Blotter	Southwestern College
Rogelia Cuttenden	Nursing student - KSNA
Sandra Hansel	WSU - KSNA
Heather Hoffman	WSU - KSNA
Kimberly Cash	NCCC Mary Grimes School of Nursing
Mymie Castro	NCCC KSNA
Shana Brown	Bethel College Nsg Student
Suzorro L. Gonzalez	Bethel College Nsg Student
Erin Cate	Bethel College
Bill Crawford	Bethel College
Verda Deebert	Bethel College
Virginia M. Buchanan	Clay Co Health Center Coordinator
Melvin Bleck	Baker University Nsg
David East	Baker University Nsg
Robert Cassido	Baker University Nsg

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: 2-8-96

NAME	REPRESENTING
Chris Clelland	Baker University Nsg.
Michael Gypson	Southwestern College
Steve Cochran	Washburn Univ Nursing
Ray E. Olson	Bethel College
Julie Smith	Bethel College
Julie Schaar	Bethel College
Joy K. Brown	Bethel College
Jeri Jansen	Bethel college
Larry Doyle	Bethel College
Kelly Cox	Bethel College
Jane Blanks	Bethel College
Alina Jurek	Bethel college
Jana Blank	Bethel College
Beth Dickertood	Washburn University Nsg. Student
Mariale Carlgren	Washburn University Nsg Student
Cheri D. Hawk	Washburn University Nsg. Student
Lisa M. Elee-man	Washburn University Nsg Student
Marie L. Higgart	Washburn University Nsg. Student
Randy Kurtt for Wm. Greenstein	Washburn University Nsg

Kansas State Board of Nursing

Landon State Office Building
900 S.W. Jackson, Rm. 551
Topeka, Kansas 66612-1230
913-296-4929
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Patsy L. Johnson, R.N., M.N.
Executive Administrator
913-296-5752

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

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

Date: February 5, 1996

Re: SB 152

A handwritten signature in black ink, appearing to read "P. Johnson", written over the typed name of the Executive Administrator.

Thank you for allowing me to testify on SB 152 on behalf of the Board of Nursing. After an initial hearing during the 1995 legislative session, the Board of Nursing has worked with interested groups to format several changes to the bill. A balloon is attached with those changes.

A new definition of active practice was added and includes those registered nurse anesthetists (RNA) who are in related areas of anesthesia practice such as administration, education and research (page 1, lines 28-29). This definition is referenced in the refresher course requirement (page 1, line 43 and page 2, line 1-2). The Board believes that a refresher course is essential for the RNA who has not been in practice. The requirements for the refresher course will be put in rule and regulation following the guidelines from the American Association of Nurse Anesthetists (AANA).

In Section 2 (c), (page 2, lines 6-8) the Board would like a change so that all schools of nurse anesthesia in Kansas will offer a masters degree. There is only one school in Kansas

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

Patricia McKillip, R.N., Ph.D.
Education Specialist
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Diane Gl...
Practi...
Senate Public Health & Welfare
Date: 2-8-96
Attachment No. /

accredited by the Board and it is already at the masters level.- Nurse anesthesia applicants without a masters degree, but graduates from approved schools outside of the state, will still be authorized for anesthesia practice in Kansas.

A large part of Section 2 (d), (lines 13-23) has been revoked. The Board of Nursing is not using a questionnaire to review schools of nurse anesthesia elsewhere in the United States. All candidates for authorization in Kansas must have passed the national standardized examination administered by the AANA. Both the exam and schools of nurse anesthesia accredited by AANA meet Kansas standards.

In Section 3, (page 2, lines 28-43 and page 3, line 1) the provision for temporary permits include one for the new graduate, the completion of a refresher course, and a period for completing requirements for reinstatement or verification of licensure. Revision of this section standardizes the permits with other licensees.

Based on K.S.A. 65-1114 (b) (2), the RNA has to be certified as an advanced registered nurse practitioner (ARNP) as well as being authorized to practice as a RNA (Attachment A). The Board added new language to Section 4 of SB 152 which will certify the RNA as an ARNP at the same time as being authorized (page 3, lines 5 and 6). The Board is proposing that no additional fee be charged for the certification as an ARNP (line 15). The current procedure incorporates processing for both the RNA and ARNP. There still are two cards printed, but the plan is for one authorization/certification card when the next contract is bid.

K.S.A. 65-1158, Section 5, (page 5) has undergone extensive revision between legislative sessions. This statute sets the scope of practice for the RNA. Upon the order of a physician (line 20), the RNA shall be authorized to provide anesthetic or analgesia services. Nine functions are listed and all are recognized as necessary to provide safe anesthesia care. If a RNA participates in providing any one or more steps of the process, the RNA will be responsible that all the other steps are carried out (new in line 20). Usually the same RNA

performs all nine functions for each case, but there are times when another RNA or an anesthesiologist may assist. In a disciplinary case, the Board will review looking for documentation which indicates all nine functions are carried out.

A revision provides that the RNA develop a general plan of anesthesia care with the physician or dentist (new in line 23). Communication between the physician and the RNA prior to the beginning of the surgical procedure is important for the well being of the patient. If there would a disciplinary case, investigators would look for documentation that such communication took place.

Other new language (3) and (4) places the responsibility on the RNA to select the anesthetic agents and methods of administration for the total course of the operative procedure (new line 28). Another change in K.S.A. 65-1158 includes the RNA inducing and maintaining analgesia (line 28). More RNA's are involved with placement of epidural spinal catheters for the purpose of pain control. This procedure may be used for post-operative pain or long term control of chronic pain. Physicians prescribe the pain control medication to be used.

After much discussion it has been agreed upon to leave old (b), new (c) in the statute which refers to the RNA in an interdependent role with a physician (page 3, lines 41-43). In some situations, there is an anesthesiologist with whom the RNA works, but the RNA always performs in a collaborative role with the surgeon in performing a safe operative procedure.

New provision (d) in Section 5 (page 3, after line 43) refers to K.S.A. 40-3403 (h) which is from the Health Care Stabilization statute. Health care providers who qualify for coverage under the fund assume no vicarious liability or responsibility for harm arising out of care given by another health care provider who is also covered by the fund. (Attachment B)

In Section 6, the stem shall was moved to the (a) statement, (page 4, line 3) and then removed from the lines as needed. The one change in Section 7 was to broaden the category from only nurses to all persons who might try to practice nurse anesthesia without

authorization, (page 4, lines 19-20). New section (f) was added to allow a RNA who is employed by the United States government to practice in Kansas without being authorized (page 5, lines 22-25). This provision already exists for other nurses who are employed in federal service.

Since last year two other issues, new (g) and (h), were addressed. The addition to K.S.A. 65-1163 allows registered professional nurses in critical care units to be educated and then administer general anesthetic agents to patients on ventilator maintenance. A light anesthetic state is maintained so the patient has maximum rest for recovery. New (h) has been added so an ARNP may administer a regional anesthetic so there is absence of pain when fingers or toes need to be sutured or manipulated. This procedure is used in some emergency rooms. Only ARNP's with additional education and are competent in the practice would be performing the procedure.

In summary, SB 152 contains a broad revision of the RNA statutes. The most significant was to clarify that the RNA selects anesthetic agents for surgical procedures. Three new exceptions to the RNA practice act allows other professionals to provide anesthetics in selected circumstances. I believe the changes in SB 152 including those in the balloon are indicative of the collaborative effort between anesthesiologists, RNA's, other physicians and nurses. That collaborative effort is not unfamiliar but is reproduced day after day in providing safe care for the operative patient.

The Board hopes you will act favorably upon SB 152.

Thank you.

65-1114. Unlawful acts. (a) It shall be unlawful for any person:

- (1) To practice or to offer to practice professional nursing in this state; or
- (2) to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is a registered professional nurse; or
- (3) to practice or offer to practice practical nursing in this state;
- (4) to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is a licensed practical nurse, unless such person has been duly licensed under the provisions of this act.

(b) It shall be unlawful for any person:

- (1) To practice or offer to practice as an advanced registered nurse practitioner in this state; or
- (2) to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is an advanced registered nurse practitioner, unless such person has been duly issued a certificate of qualification as an advanced registered nurse practitioner under the Kansas nurse practice act.

History: L. 1949, ch.331, § 3, L. 1975, ch. 316, § 2; L. 1978, ch. 240; § 3; L. 1983, ch. 206, § 7; April 28.

65-1115. Licensure of professional nurses; qualifications of applicants; license by examination title and abbreviation; temporary permit. (a) Qualifications of applicants. An applicant for a license to practice as a registered professional nurse shall file with the board written application for a license and submit satisfactory proof that the applicant: (1) Has graduated from a high school accredited by the appropriate legal accrediting agency or has obtained the equivalent of a high school education, as determined by the state department of education;

(2) holds evidence of graduation from an accredited school of professional nursing in the United States or its territories or from a school of professional nursing in a foreign country which is approved by the board as defined in rules and regulations;

(3) has obtained other qualification not in conflict with this act as the board may prescribe by rule and regulation.

(b) Applicant deficient in qualification. If the board finds in evaluating any applicant that such applicant is deficient in qualification or in the quality of such applicant's educational experience, the board may require such applicant to fulfill such remedial or other requirements as the board may prescribe.

(c) License. (1) An applicant shall pass an examination as the board may prescribe. Each examination may be supplemented by an oral or practical examination. Upon successfully passing such examinations the board shall issue to the applicant a license to practice nursing as a registered professional nurse.

(2) Refresher course. Notwithstanding the provisions of subsection (a) and (b), an applicant for a license to practice as a registered professional nurse who has not been licensed to practice professional nursing for five years preceding application shall be required to successfully complete a refresher course as defined by the board.

(3) Renewal license. A licensed professional nurse licensed under this act shall be eligible for renewal licenses upon compliance with K.S.A. 65-1117 and amendments thereto.

(4) Repeated examination failure. Persons who are unsuccessful in passing the licensure examination after four failures shall petition the board for permission prior to subsequent attempts. The board may require the applicant to submit and complete a plan of study prior to taking the licensure examination for the fifth time or any subsequent attempt.

(d) Title and abbreviation. Any person who holds a license to practice as a registered professional nurse in this state shall have the right to use the title, "registered nurse," and the abbreviation, "R.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs or figures to indicate that the person is a registered professional nurse.

(e) Temporary permit. The board may issue a temporary permit to practice nursing as a registered professional nurse for a period not to exceed 90 days. The 90 day temporary permit may be renewed for an additional 30 days but not to exceed a combined total of 120 days.

History: L. 1949, ch. 331, § 4; L. 1963, ch 314, § 2; L. 1968, ch. 231, §1; L 1972, ch. 231, § 9; L. 1975, ch. 316, § 3; L. 1982, ch. 261, § 1; L. 1983, ch. 207, § 1; L. 1986, ch. 233, § 1; L. 1990, ch. 221, § 1; L. 1992, ch. 151, § 1; April 30, L. 1993, ch; 194, § 9; July 1.

40-3403

INSURANCE

before July 1, 1989, subject to an aggregate limitation for all judgments or settlements arising from all claims made in any one fiscal year in the amount of \$6,000,000 for each health care provider.

(f) The fund shall not be liable to pay in excess of the amounts specified in the option selected by the health care provider pursuant to subsection (l) for judgments or settlements relating to injury or death arising out of the rendering of or failure to render professional services by such health care provider on or after July 1, 1989.

(g) A health care provider shall be deemed to have qualified for coverage under the fund:

(1) On and after July 1, 1976, if basic coverage is then in effect;

(2) subsequent to July 1, 1976, at such time as basic coverage becomes effective; or

(3) upon qualifying as a self-insurer pursuant to K.S.A. 40-3414 and amendments thereto.

→ (h) A health care provider who is qualified for coverage under the fund shall have no vicarious liability or responsibility for any injury or death arising out of the rendering of or the failure to render professional services inside or outside this state by any other health care provider who is also qualified for coverage under the fund. The provisions of this subsection shall apply to all claims filed on or after July 1, 1986.

(i) Notwithstanding the provisions of K.S.A. 40-3402 and amendments thereto, if the board of governors determines due to the number of claims filed against a health care provider or the outcome of those claims that an individual health care provider presents a material risk of significant future liability to the fund, the board of governors is authorized by a vote of a majority of the members thereof, after notice and an opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, to terminate the liability of the fund for all claims against the health care provider for damages for death or personal injury arising out of the rendering of or the failure to render professional services after the date of termination. The date of termination shall be 30 days after the date of the determination by the board of governors. The board of governors, upon termination of the liability of the fund under this subsection, shall notify the licensing or other disciplinary board having jurisdiction over the health care provider involved of the name of the health care provider and the reasons for the termination.

(j) (1) Upon the payment of moneys from the health care stabilization fund pursuant to subsection (c)(11), the board of governors shall certify to the director of accounts and reports the amount of such payment, and the director of accounts and reports shall transfer an amount equal to the amount certified, reduced by any amount transferred pursuant to paragraph (3) of this subsection (j), from the state general fund to the health care stabilization fund.

(2) Upon the payment of moneys from the health care stabilization fund pursuant to subsection (c)(12), the board of governors shall certify to the director of accounts and reports the amount of such payment which is equal to the basic coverage liability of self-insurers, and the director of accounts and reports shall transfer an amount equal to the amount certified, reduced by any amount transferred pursuant to paragraph (3) of this subsection (j), from the state general fund to the health care stabilization fund.

(3) The university of Kansas medical center private practice foundation reserve fund is hereby established in the state treasury. If the balance in such reserve fund is less than \$500,000 on July 1 of any year, the private practice corporations or foundations referred to in subsection (c) of K.S.A. 40-3402, and amendments thereto, shall remit the amount necessary to increase such balance to \$500,000 to the state treasurer for credit to such reserve fund as soon after such July 1 date as is practicable. Upon receipt of each such remittance, the state treasurer shall credit the same to such reserve fund. When compliance with the foregoing provisions of this paragraph have been achieved on or after July 1 of any year in which the same are applicable, the state treasurer shall certify to the board of governors that such reserve fund has been funded for the year in the manner required by law. Moneys in such reserve fund may be invested or reinvested in accordance with the provisions of K.S.A. 40-3406, and amendments thereto, and any income or interest earned by such investments shall be credited to such reserve fund. Upon payment of moneys from the health care stabilization fund pursuant to subsection (c)(11) or (c)(12) with respect to any private practice corporation or foundation or any of its full-time physician faculty employed by the university of Kansas, the director of accounts and reports shall transfer an amount equal to the amount paid from the university of Kansas medical center private practice foundation reserve fund to the

SENATE BILL No. 152

By Committee on Public Health and Welfare

1-30

9 AN ACT concerning nursing; relating to registered nurse anesthetists;
10 amending K.S.A. 65-1151, 65-1153, 65-1154, 65-1158, 65-1159 and
11 65-1163 and K.S.A. 1994 Supp. 65-1152 and 65-1162 and repealing
12 the existing sections; also repealing K.S.A. 65-1161.

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

15 Section 1. K.S.A. 65-1151 is hereby amended to read as follows: 65-
16 1151. As used in K.S.A. 65-1151 to ~~65-1163~~ 65-1164, inclusive *and*
17 *amendments thereto:*

18 (a) "Registered nurse anesthetist" means a licensed professional
19 nurse who is authorized to practice as a registered nurse anesthetist.

20 (b) "Board" means the board of nursing.

21 (c) "Local anesthetic" means infiltration anesthesia or anesthesia pro-
22 duced by direct infiltration of local anesthetic solution into the operative
23 site.

24 (d) "Regional anesthesia" means the use of local anesthetic solutions
25 to produce loss of sensation in circumscribed areas.

26 (e) "General anesthesia" means one that is complete and affecting
27 the entire body with the loss of consciousness.

28 (f) "*Active anesthesia practice*" means *clinical practice and anesthesia*
29 *related administration, educational and research activities.*

30 Sec. 2. K.S.A. 1994 Supp. 65-1152 is hereby amended to read as
31 follows: 65-1152. (a) In order to obtain authorization from the board of
32 nursing to practice as a registered nurse anesthetist an individual shall
33 meet the following requirements:

34 (1) ~~Is~~ *Be* licensed to practice professional nursing under the Kansas
35 nurse practice act;

36 (2) has successfully completed a course of study in nurse anesthesia
37 in a school of nurse anesthesia accredited or approved by the board; ~~and~~

38 (3) has successfully completed an examination approved by the board
39 or has been certified by a national organization whose certifying standards
40 are approved by the board as equal to or greater than the corresponding
41 standards established under this act for obtaining authorization to practice
as a registered nurse anesthetist; *and*

42 (4) *be required to successfully complete a refresher course as defined*

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1 in rules and regulations of the board if the individual has not been in
2 active anesthesia practice for five years preceding the application.

3 (b) Accreditation of schools of nurse anesthesia shall be based on
4 accreditation standards specified in K.S.A. 65-1119 and amendments
5 thereto.

6 (c) Schools of nurse anesthesia accredited or approved by the board
7 under this section may offer, but shall not be required to shall offer, a
8 masters level degree program in nurse anesthesia.

9 (d) For the purposes of determining whether an individual meets the
10 requirements of item (2) of subsection (a), the board by rules and regu-
11 lations shall establish criteria for determining whether a particular school
12 of nurse anesthesia maintains standards which are at least equal to schools
13 of nurse anesthesia which are accredited or approved by the board. The
14 board may send a questionnaire developed by the board to any school of
15 nurse anesthesia for which the board does not have sufficient information
16 to determine whether the school meets the standards established under
17 this subsection (d). The questionnaire providing the necessary informa-
18 tion shall be completed and returned to the board in order for the school
19 to be considered for approval. The board may contract with investigative
20 agencies, commissions or consultants to assist the board in obtaining in-
21 formation about schools of nurse anesthesia. In entering such contracts
22 the authority to approve schools of nurse anesthesia shall remain solely
23 with the board.

24 Sec. 3. K.S.A. 65-1153 is hereby amended to read as follows: 65-
25 1153. The board may grant a temporary authorization to practice nurse
26 anesthesia as a registered nurse anesthetist: (a) For a period of not more
27 than one year to ~~(1)~~ graduates of a school of nurse anesthesia accredited
28 or approved by the board pending results of the initial examination; or
29 ~~(2)~~ nurse anesthetists currently licensed or otherwise credentialed in an-
30 other state pending completion of the application for an authorization to
31 practice nurse anesthesia as a registered nurse anesthetist in this state;
32 and (b) for a period of not to exceed 180 days to an applicant for an
33 authorization to practice nurse anesthesia as a registered nurse anesthetist
34 who is enrolled in a refresher course required by the board for reinstatement
35 of authorization which has lapsed for more than five years or for
36 authorization in this state from another state if the applicant has not been
37 engaged in the practice of nurse anesthesia for five years preceding ap-
38 plication

39 (b) for 180 days for the clinical portion of a refresher course and the
40 temporary authorization may be renewed by the board for one additional
41 period of not to exceed 180 days; and

42 (c) for a period not to exceed ~~60~~ 90 days when a reinstatement ap-
43 plication has been made. The 90-day temporary permit may be renewed

additional
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1 for an additional 30 days but not to exceed a combined total of 120 days.

2 Sec. 4. K.S.A. 65-1154 is hereby amended to read as follows: 65-
3 1154. Upon application to the board by any licensed professional nurse
4 in this state and upon satisfaction of the standards and requirements es-
5 tablished under this act, the board shall grant an authorization to the
6 applicant to perform the duties of a registered nurse anesthetist. An ap-
7 plication to the board for an authorization, for an authorization with tem-
8 porary authorization, for biennial renewal of authorization, for reinstatement
9 of authorization and for reinstatement of authorization with
10 temporary authorization shall be upon such form and contain such infor-
11 mation as the board may require and shall be accompanied by a fee to
12 assist in defraying the expenses in connection with the administration of
13 the provisions of this act. The fee shall be fixed by rules and regulations
14 adopted by the board in an amount fixed by the board under K.S.A. 65-
15 1118 and amendments thereto. The executive administrator of the board
16 shall remit all moneys received pursuant to ~~K.S.A. 65-1151 to 65-1163,~~
17 ~~inclusive, and amendments thereto,~~ to the state treasurer as provided by
18 K.S.A. 74-1108 and amendments thereto.

and K.S.A. 65-1130

and be certified as an advanced registered nurse practitioner

There shall be no fee assessed for the initial, renewal or
reinstatement of the advanced registered nurse practitioner
certificate as long as the registered nurse anesthetist
maintains authorization.

19 Sec. 5. K.S.A. 65-1158 is hereby amended to read as follows: 65-
20 1158. (a) Each registered nurse anesthetist shall be authorized to:

Upon the order of a physician or dentist requesting anesthesia or
analgesia care,

21 (1) Conduct a pre- and post-anesthesia visit and assessment with ap-
22 propriate documentation;

perform and shall assure the following are completed with each
anesthetic

23 (2) develop ~~an anesthesia care plan with the physician or dentist~~
24 ~~which includes procedures for administration of medications and anes-~~
25 ~~thetic agents plan which includes ordering appropriate medications and~~
26 ~~anesthetics for pre-operative, intra-operative and post-operative admin-~~
27 ~~istration;~~

a general plan of anesthesia care with the physician or dentist

New

(3) select method for administration of anesthesia or analgesia;
(4) select appropriate medications and anesthetic agents;

28 ~~(3)~~ 5 induce and maintain anesthesia or analgesia at the required levels;

29 ~~(4)~~ 6 support life functions during the peri-operative period;

30 ~~(5)~~ 7 recognize and take appropriate action with respect to patient re-
31 sponses during anesthesia;

32 ~~(6)~~ 8 provide professional observation and management of the patient's
33 emergence from anesthesia; and

34 ~~(7)~~ 9 participate in the life support of the patient;

35 ~~(8)~~ (b) Each registered nurse anesthetist may participate in periodic
36 and joint evaluation of services rendered, including, but not limited to,
37 chart reviews, case reviews, patient evaluation and outcome of case sta-
38 tistics; and

39 ~~(9)~~ participate in the joint reviews and revision of adopted protocols
40 or guidelines.

Undelete

(b) (c) A registered nurse anesthetist shall perform duties and
functions in an interdependent role as a member of a physician
or dentist directed health care team.

41 (b) A registered nurse anesthetist shall perform duties and functions
42 in an interdependent role as a member of a physician or dentist directed
43 health care team.

New

(d) The provisions of K.S.A. 40-3403 (h) shall apply.

1 Sec. 6. K.S.A. 65-1159 is hereby amended to read as follows: 65-
2 1159. (a) The applicant for renewal of an authorization to practice as a
3 registered nurse anesthetist *shall*:

4 (1) ~~shall~~ Have met the continuing education requirements for a reg-
5 istered nurse anesthetist as developed by the board or by a national or-
6 ganization whose certifying standards are approved by the board as equal
7 to or greater than the corresponding standards established under this act;

8 (2) ~~shall~~ be currently licensed as a professional nurse; and

9 (3) ~~shall~~ have paid all applicable fees provided for in this act as fixed
10 by rules and regulations of the board.

11 (b) Continuing education credits approved by the board for purposes
12 of this subsection may be applied to satisfy the continuing education re-
13 quirements established by the board for licensed professional nurses un-
14 der K.S.A. 65-1117 and amendments thereto if the board finds such con-
15 tinuing education credits are equivalent to those required by the board
16 under K.S.A. 65-1117 and amendments thereto.

17 Sec. 7. K.S.A. 1994 Supp. 65-1162 is hereby amended to read as
18 follows: 65-1162. (a) Except as otherwise provided in K.S.A. 65-1151 to
19 65-1163, inclusive, and amendments thereto any ~~licensed professional~~
20 ~~nurse or licensed practical nurse person~~ who engages in the administra-
21 tion of general or regional anesthesia without being authorized by the
22 board to practice as a registered nurse anesthetist is guilty of a class A
23 misdemeanor.

24 (b) Any person, corporation, association or other entity, except as
25 otherwise provided in K.S.A. 65-1151 to 65-1163, inclusive, and amend-
26 ments thereto who engages in any of the following activities is guilty of a
27 misdemeanor:

28 (1) Employing or offering to employ any person as a registered nurse
29 anesthetist with knowledge that such person is not authorized by the
30 board to practice as a registered nurse anesthetist;

31 (2) fraudulently seeking, obtaining or furnishing documents indicat-
32 ing that a person is authorized by the board to practice as a registered
33 nurse anesthetist when such person is not so authorized, or aiding and
34 abetting such activities;

35 (3) using in connection with one's name the title registered nurse
36 anesthetist, the abbreviation R.N.A., or any other designation tending to
37 imply that such person is authorized by the board to practice as a regis-
38 tered nurse anesthetist when such person is not authorized by the board
39 to practice as a registered nurse anesthetist; or

40 (4) violation of the Kansas nurse practice act or rules and regulations
1 adopted pursuant thereto.

42 (c) Any person who violates subsection (b) of this section is guilty of
43 a class B misdemeanor except that upon conviction of a second or sub-

1 sequent violation of this section, the person is guilty of a class A misde-
 2 meanor.

3 Sec. 8. K.S.A. 65-1163 is hereby amended to read as follows: 65-
 4 1163. ~~(a)~~ Nothing in this act shall

5 (a) Prohibit administration of a drug by a duly licensed professional
 6 nurse, licensed practical nurse or other duly authorized person for the
 7 alleviation of pain, including administration of local anesthetics;

8 (b) ~~Nothing in this act shall~~ apply to the practice of anesthesia by a
 9 person licensed to practice medicine and surgery, a licensed dentist or a
 10 licensed podiatrist;

11 (c) ~~Nothing in this act shall~~ prohibit the practice of nurse anesthesia
 12 by students enrolled in approved courses of study in the administration
 13 of anesthesia as a part of or incidental to such approved course of study;

14 (d) ~~Nothing in this act shall~~ apply to the administration of a pudental
 15 block by a person who holds a valid certificate of qualification as an ad-
 16 vanced registered nurse practitioner in the category of nurse-midwife;

17 (e) ~~Nothing in this act shall~~ apply to the administration by a licensed
 18 professional nurse of an anesthetic, other than general anesthesia, for a
 19 dental operation under the direct supervision of a licensed dentist or for
 20 a dental operation under the direct supervision of a person licensed to
 21 practice medicine and surgery; or

22 (f) *prohibit the practice by any registered nurse anesthetist who is*
 23 *employed by the United States government or in any bureau, division or*
 24 *agency thereof, while in the discharge of official duties.*

25 Sec. 9. K.S.A. 65-1151, 65-1153, 65-1154, 65-1158, 65-1159, 65-
 26 1161 and 65-1163 and K.S.A. 1994 Supp. 65-1152 and 65-1162 are hereby
 27 repealed.

28 Sec. 10. This act shall take effect and be in force from and after its
 29 publication in the statute book.

New

(g) prohibit a registered professional nurse from administering general anesthetic agents to a patient on ventilator maintenance in critical care units when under the direction of a person licensed to practice medicine and surgery or a person licensed to practice dentistry.

(h) apply to the administration of a digital block by a person who holds a valid certificate of qualification as an advanced registered nurse practitioner.



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the Voice of Nursing in Kansas

Betty Smith-Campbell, M.N., R.N., ARNP
President

Terri Roberts, J.D., R.N.
Executive Director

FOR MORE INFORMATION CONTACT
Terri Roberts JD, RN
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Kansas State Nurses Association
700 SW Jackson, Suite 601
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913-233-8638
February 8, 1996

S.B. 152 REGISTERED NURSE ANESTHETIST STATUTE CHANGES

Chairperson Praeger and members of the Senate Public Health and Welfare Committee, my name is Canda Byrne, MSN, RN, ARNP, and I am the Legislative Chairperson for the Kansas State Nurses Association. I am here to testify in support of S.B. 152 and some proposed amendments. KSNA testified in support of the bill last year, so these comments relate only to the amendments proposed today.

The Kansas Board of Nursing has offered two new amendments to K.S.A. 65-1163 which appear in section 8 (page 5) new (g) and (h) which read:

Nothing in this section shall...

(g) prohibit a registered professional nurse from administering general anesthetic agents to a patient on ventilator maintenance in critical care units when under the direction of a person licensed to practice medicine and surgery or a person licensed to practice dentistry.

(h) apply to the administration of a digital block by a person who holds a valid certificate of qualification as an advanced registered nurse practitioner.

New (g) would permit RNs working in critical care units of hospitals to maintain patients on low dose anesthetic agents. This particular type of sedation has been found to be very effective in pediatric and trauma cases where the risk of combativeness warrant such sedation. Particularly with pediatric patients, there is a tendency if they are awake to pull out their intravenous lines and try to remove their breathing tubes. Most of the research that we reviewed was published in European journals but reflected a high efficacy and safety feature. This particular provision relates only to maintaining patients for ventilator maintenance so it has a specific parameter that will be appropriately limiting.

The mission of the Kansas State Nurses Association is to promote professional nursing, to provide a unified voice for nursing in Kansas and to advocate for the health and well-being of all people.

Constituent of The American Nurses Association

Senate Public Health & Welfare
Date: 2-8-96
Attachment No. 2

S.B. 152--KSNA Testimony
February 8, 1996
Page 2

New (h) would permit ARNPs to use digital blocks in the fingers or the toes. This is often used for lacerations that are going to receive stitches and instead of giving five or six individual shots of lidocaine or topical anesthetics, a digital block is done to reduce feeling and pain. It is a relatively safe procedure that ARNPs who are trained in should be authorized to perform.

Thank you for the opportunity to present today and support these modifications to S.B. 152.

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KANSAS ASSOCIATION OF NURSE ANESTHETISTS



February 8, 1996

Senator Sandy Praeger
Chairperson, Senate Public Health and Welfare Committee
State Capitol Building
Topeka, Kansas 66612

My name is Joseph P. Conroy and I am a Certified Registered Nurse Anesthetist from Emporia, Kansas, and currently President of the Kansas Association of Nurse Anesthetists.

I am here to provide testimony in support of S.B. 152, where changes are made in the Registered Nurse Anesthetists' Statutes, including modifications in the authorization language.

The changes made in 65-1158, scope of practice, were made as a result of discussion with the Board of Nursing, who indicated a need for language which reflected the actual practice of anesthesia in the state of Kansas by RNA's. The current language was felt to be ambiguous with regard to authorization.

Since our last hearing on S.B.152, on February 14, 1995, our Association has had numerous discussions with the Kansas Society of Anesthesiologists and have agreed upon compromises to the original language.

The first change included adding to Scope of Practice, (a), Upon the order of a physician or dentist requesting anesthesia care, etc. This addition referenced the fact that CRNA's cannot provide anesthesia services without a physician order and therefore are not "independent practitioners", nor do we wish to practice medicine.

The second change involved (a), (2), develop a general plan of anesthesia care with the physician or dentist. This compromise addressed the concern of the surgeons that they have little or no training in anesthesia to develop a specific plan but bring to the patient their medical expertise and judgement.

The third change involved (a), (3)&(4), select method for administration of anesthesia or analgesia, and select appropriate medications and anesthetic agents. This language is the actual authorization language that is necessary to avoid the confusion over the original language.

Senate Public Health and Welfare

Date: 2-8-96

Attachment No. 3

KANSAS ASSOCIATION OF NURSE ANESTHETISTS



The last change involved leaving in (c), an RNA functions in an interdependent role as a member of a physician directed health care team, but adding (d), the provisions of K.S.A. 40-3403(h) shall apply. This statute is a reference to the Health Care Stabilization Fund Act where a health care provider shall have no vicarious liability or responsibility for another health care provider who is also qualified for coverage under the fund. The addition of (d) serves to further remove the "Captain of the Ship" as a viable legal doctrine in the state of Kansas, although a recent article in the Kansas Medical Society's magazine has stirred up that issue again, somewhat.

In closing, the Kansas Association of Nurse Anesthetists would like to thank the Kansas Society of Anesthesiologists for their patience and help in modifying 65-1158 so that it more accurately reflects the practice of nurse anesthesia as it currently exists in the state of Kansas today, and is not intended to be a change in or expansion of our scope of practice. We have enjoyed a good relationship with the KSA and hope to continue to do so in the future.

We would also like to thank Pat Johnson and the State Board of Nursing for their time and effort.

Respectfully submitted,

Joseph P. Conroy, B.A., C.R.N.A., A.R.N.P.
2614 Apple Drive
Emporia, Kansas 66801-5910
316-342-0856

Captain of the ship—relic or reality?

Meg Henson, KMS Director of Government Affairs



A PHYSICIAN'S liability is generally predicated on his or her own negligence. Sometimes, however, a physician may be held liable for the negligence of others such as a nurse during a surgical procedure. The "captain of the ship" is one legal doctrine that allows for

such recoveries from physicians.

The captain of the ship doctrine says that a surgeon may have a responsibility to supervise personnel involved in an operation because the physician is deemed to have control over everything that goes on in the operating room during the procedure, even personnel who are hospital employees or independent contractors. The doctrine is frequently applied to operating room situations, but it may also be applied to other areas of medical practice.

This doctrine arose at a time when most hospitals were non-profit entities with charitable immunity. For this reason, courts were reluctant to allow injured parties to collect damages from hospitals or their

employees, who were frequently uninsured. Consequently, courts created the captain of the ship doctrine as a means to provide access to the liability insurance which physicians carried.

As with most issues, there is some good and some bad associated with the doctrine in today's legal and medical climate. Holding the operating surgeon responsible for what goes on in the OR may help to maintain order and quality, but is it fair to do so when the surgeon has no control over the hiring, training or performance of personnel involved in the operation?

In recent years, courts in many states have abandoned the captain of the ship doctrine in favor of holding each participant individually liable for his or her part in any injury to the patient. Kansas courts, however, have not yet made the shift. The doctrine is apparently alive and well today in Kansas, and how it is applied depends on the facts and circumstances of each particular case.

For example, a specific, but limited, provision of the law on "vicarious" liability holds that a health care provider may not be held liable or responsible for the negligence of another health care provider if both are covered under the Health Care Stabilization Fund. This provision is currently at the heart of a dispute involving nurse anesthetists. CRNAs want total independence from physicians, and they claim this vicarious liability

law relieves surgeons from any liability for negligence of the CRNA. However, a provision of the law governing scope of practice of CRNAs stipulates that they must work in a "physician . . . directed health care team." It is unclear how the courts would reconcile the apparent contradiction between a physician's duty to direct the CRNA and the protection from vicarious liability for negligent acts of the CRNA. Whether the captain of the ship doctrine is negated in such situations has not yet been squarely addressed by the courts in Kansas. Given the right set of facts, a court may discard the doctrine or apply it, leaving physicians in somewhat muddy legal waters.

As a result, physicians should keep in mind that, in some situations, especially surgical or other interventional procedures, a physician may have some liability for the actions of other personnel, even those the physician does not employ, supervise or otherwise control. Until the courts clear up the uncertainties surrounding the captain of the ship doctrine, physicians should be aware of the potential for added liability in such situations. **KMS**

If you have any questions about the "captain of the ship" issue or would like more information, you may contact Meg Henson at the KMS office at 913.235.2383 or 800.332.0156.

KANSAS STATE SOCIETY OF ANESTHESIOLOGISTS
Component Society of
The American Society of Anesthesiologists, Inc.

TESTIMONY PRESENTED TO
THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
BY
KANSAS STATE SOCIETY OF ANESTHESIOLOGISTS
SENATE BILL NO. 152

FEBRUARY 8, 1996

Madam Chair and members of the Public Health and Welfare Committee:

Good morning. I am Jim Kindscher. I am the President-Elect of the Kansas State Society of Anesthesiologists. Our Society is comprised of over 140 anesthesiologist from across the state. I want to thank you for this opportunity to provide testimony on Senate Bill No. 152. When our society first testified on this bill almost one year ago today, we opposed many of the changes proposed by the State Board of Nursing. We thought at the time the changes were quite broad and diminished or removed the role of physicians and dentists in care of patients receiving anesthetic care from Certified Registered Nurse Anesthetists. At your request, we have studied these issues and attempted to arrive at language that would be reasonable, preserve the role of the physician in this type of anesthetic care, and allow nurse anesthetists to deliver anesthetic care in an appropriate, lawful manner. These discussions were held with the goal of securing the best care for surgical patients in the State of Kansas.

This proposed language represents that hard work. The wording in Section 5 is designed specifically to ensure that a physician or dentist order the anesthetic care for their patients. The CRNA must develop a general plan for the anesthetic with the physician or dentist.

We believe that his allows the physician to order anesthetic care without ordering specific medications and anesthetics that are outside of their surgical expertise but yet allows them to provide their valued input in the form of patient evaluation and knowledge of planned surgical procedures. It allows the CRNA's to do what they are trained to do in choosing specific types of anesthesia and anesthetic medications along with their route of administration.

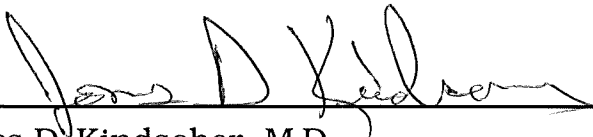
The new letter "d" cross references to another area of Kansas law that deals with vicarious liability and, although our society is not sure that it is entirely necessary, it may remove doubt as to where the liability rests for the practice of each practitioner.

Senate Public Health and Welfare
Date: 2-8-96
Attachment No. 4

Section 8(h) has been proposed by the Kansas Board of Nursing. We feel that digital blocks are medical procedures and should be administered under supervision of a physician. We therefore recommend inclusion of language requiring that these medical procedures be performed on the order of or under the supervision of a physician.

On behalf of the Kansas State Society of Anesthesiologists, I am pleased to offer our support for Senate Bill No. 152 with the proposed balloon amendments. Thank you for allowing me to testify here today. I would be pleased to answer any questions you or the Committee Members may have.

Presented By:



James D. Kindscher, M.D.

President-Elect

Kansas State Society of Anesthesiologists

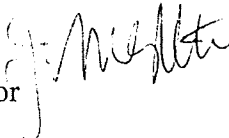


KANSAS MEDICAL SOCIETY

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February 8, 1996

TO: Senate Public Health and Welfare Committee

FROM: Jerry Slaughter 
Executive Director

SUBJECT: SB 152; concerning nurse anesthetists scope of practice

The Kansas Medical Society appreciates the opportunity to appear today as you consider SB 152. As you know, after consideration last year, the parties were asked to get together and see if something could be worked out. We participated in those deliberations through one of our specialty organizations, the Kansas Society of Anesthesiologists.

We did not support this bill last year because we felt it went too far in virtually eliminating any physician involvement in the care of patients by CRNAs. For the past several years, CRNAs have worked in collaboration with physicians, a concept we believe is important to the preservation of quality care. Following the discussions over the past several months, we now believe the changes that are being proposed in the revised draft are reasonable, both meeting our goal of maintaining the team approach, while allowing CRNAs to deliver anesthetic care in an appropriate manner. The changes to Section 5 of the bill are designed to allow physicians to order anesthetic care and participate in the overall anesthetic care plan, and allow nurse anesthetists to select appropriate anesthetic agents and their method of administration, within the context of a physician directed health care team.

Even though we do not object to the amendment, we do not think the addition of new subsection (d) in section 5 clarifies or adds anything to the bill. This statutory reference is to the vicarious liability section of the law which governs the Health Care Stabilization Fund. The addition of this section, as we understand it, is to alleviate concerns about assumed liability under the traditional "captain of the ship" doctrine of common law. While we disagree with the CRNAs about its effect on any captain of the ship liability, we are unsure of any impact its reference in the CRNA law will have.

There is an issue that has surfaced since we last saw the agreed upon amendments. We understand the Board of Nursing will be submitting two additional amendments in section 8. We can support the first amendment, which is a new subsection (g), relating to the administering of anesthetics by RNs in critical care units under the direction of a physician. However, the second amendment, a new subsection (h), we cannot support without the addition of the following language after "practitioner": *when under the direction of a person licensed to practice medicine and surgery*. With that addition, we could support not only the proposed amendment, but the rest of the bill.

We appreciate the opportunity to offer these comments, and would be happy to respond to any questions. Thank you.

Senate Public Health & Welfare
Date: 2-8-96
Attachment No. 5

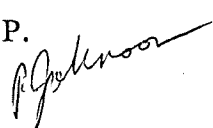
Kansas State Board of Nursing

Landon State Office Building
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Patsy L. Johnson, R.N., M.N.
Executive Administrator
913-296-5752

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

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

Date: February 6, 1996

Re: SB 538

Thank you for allowing me to testify on SB 538 on behalf of the Board of Nursing. In addition to creating an exempt license, the Board has addressed several issues in SB 538 to clarify existing practices.

The first change is in K.S.A. 65-1115. It combines the 90 plus 30 day temporary permit into one 120 day temporary permit for the registered professional nurse (page 2, lines 17-18). This change reduces the number of temporary permits issued yet gives applicants the full benefit of the 120 day permit. The same language has been added to K.S.A 65-1116 for the licensed practical nurse (page 3, lines 35-36).

CHARITABLE HEALTH CARE

The main purpose of SB 538 is to establish an exempt license or certificate for registered professional and licensed practical nurses, licensed mental health technicians, and advanced

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Patricia McKillip, R.N., Ph.D.
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Diane Glynn, Senate Public Health & Welfare
Practice S₁ Date: 2-8-96
296-4: Attachment No. 6

registered nurse practitioners who wish to provide voluntary nursing or mental health technician services for charitable health care. This provision would allow nurses to maintain the exempt license without meeting continuing nursing education requirements for renewal. Rules and regulations would be written by the Board of Nursing to designate who would be eligible for the exempt status. If the nurse would wish to practice nursing in other than the charitable health care setting, then the person would apply for a regular license or certificate.

The same language for exempt status is found in the following statutes:

R.N.	K.S.A. 65-1115 (f), page 2, lines 19-35
L.P.N.	K.S.A. 65-1116 (f), page 3, lines 37-43 and page 4, lines 1-10
A.R.N.P.	K.S.A. 65-1131 (c), page 9, lines 14-28
L.M.H.T.	K.S.A. 65-4203 (e), page 10, lines 37-43 and page 11, lines 1-10

Provisions for charitable health care providers under the Kansas Tort Claims Act is found in 1995 Supp. K.S.A. 75-6102 (Attachment A). The definition of health care provider for the charitable health care provision is found in K.S.A. 65-4921. The Board has amended that statute so the advanced registered nurse practitioner is added to the definition (page 12, lines 27-28).

FEES

The bill establishes application fees for exempt licensure or certification (page 4, lines 41-43 and page 5, lines 1-4). The Board of Nursing decided upon the \$60 fee cap to be consistent with other application fees. The exempt license fee caps for L.M.H.T.'s has also been established (page 12, lines 13-14).

The fee caps for advanced registered nurse practitioner certification renewal and reinstatement are also addressed in the bill (page 4, lines 27-30). Although there is no present plan to raise the A.R.N.P. fees, the cap on the renewal fee is especially low and raising it would make it consistent with other fee caps.

The L.M.H.T. renewal fee by regulation is at the maximum set in statute. The Board felt it appropriate to raise it to \$60 for consistency (page 12, line 4). This change would allow for an increase at a later date. I would like to emphasize that the fees in statute only set the maximum level to which the Board may raise them. The actual fee charged is in regulation and may be lower. Example: the renewal fee for R.N.'s and L.P.N.'s is currently \$50 while the statutory limit is \$60. Fees are raised in response to budgetary needs of the agency.

OTHER CHANGES

The Board of Nursing has been approving individual continuing nursing education (CNE) courses for licensees for many years (page 6, lines 41-43). It was suggested by the Assistant Attorney General assigned to the Board to clarify the practice. Without the Board being authorized to approve individual offerings, licensees would only get credit for those offerings presented by Board approved CNE providers. This would be quite restrictive and many nurses would not be able to complete CNE requirements for license renewal. It is logical that if the Board of Nursing can approve providers of CNE, then the Board should also be able to approve individual courses.

The Board of Nursing also proposes that the coordinators of approved CNE providerships may also review the individual courses and approve them. The coordinators are preparing courses for presentation in compliance with regulations. They are knowledgeable of education processes as well as Board requirements for courses. It would be a benefit to individual licensees to be able to get courses approved by coordinators in their local areas. Although there is some concern about inconsistency, the Board's education specialist does not believe this would be a problem.

The Board of Nursing has been approving individual continuing education courses and providerships for L.M.H.T.'s as well (page 11, lines 34-35). The new language in the licensed mental health technician practice act clarifies that process.

In K.S.A. 65-1124 (k), the Board has revised the existing exemption for nurses to delegate nursing procedures in the school setting (page 8, lines 21-23). The revision allows the Board to write rules and regulations which are directed at the delegation process rather than prescribing a list of procedures that nurses in school settings may delegate to unlicensed persons. School nurses have been delegating under the provisions of K.A.R. 60-15-101 through 60-15-104 since 1988. They have set a positive role model for the expanded delegation we are now seeing in other areas of health care. A list of nursing procedures would be too limiting.

The Board believes there are certain nursing practices addressed in other areas of the nurse practice act that nurses should not delegate (page 10, lines 3-5). An example would be L.P.N.'s and intravenous therapy (K.S.A. 65-1136, Attachment B). Because the education and practice is specific to this group of licensees, then a nurse should not be able to delegate that practice to an unlicensed person or to a L.P.N. who has not completed an approved education program. The Board believes that our delegation provisions, K.S.A. 65-1124 (m) (page 8, lines 28-32) and K.S.A. 65-1165 (Section 7, page 9-10) do not supersede language in other areas of the practice act but should be read in conjunction with other statutes addressing nursing practice. The addition of new (c) to K.S.A. 65-1165 clarifies the Board's position on delegation.

In summary, SB 538 creates an exempt license for some nurses who do not want to carry an active license in Kansas but still want to nurse in charitable health care settings. The bill also clarifies statutory language for delegation by nurses in school settings, Board approval of continuing nursing education offerings, and situations when nurses should not delegate. The Board hopes you will act favorably upon SB 538.

Thank you.

ATTACHMENT A
1995 Supp.
Kansas Tort Claims Act

75-6102 STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES

55. School district's responsibility in failing to follow established procedure involving child abuse allegations against third party's employee/bus driver examined. *Kansas State Bank & Tr. Co. v. Specialized Transportation Services, Inc.*, 249 K. 348, 363, 819 P.2d 587 (1991).

56. County treasurer and state department of revenue lack immunity for negligent examination of motor vehicle title application. *Mid American Credit Union v. Board of Sedgwick County Comm'rs*, 15 K.A.2d 216, 219, 806 P.2d 479 (1991).

57. State employee's acceptance of bribe as not within scope of employment and does not further state's business. *Commerce Bank of St. Joseph, N.A. v. State*, 251 K. 207, 214, 833 P.2d 996 (1992).

58. Cited in holding police owed no special duty to intoxicated bar patron permitted to leave and later found frozen to death nearby. *Mills v. City of Overland Park*, 251 K. 434, 448, 837 P.2d 370 (1992).

59. Department of transportation and city immune from liability under act for nonplacement of protected left-turn signal on connecting link highway. *Force v. City of Lawrence*, 17 K.A.2d 90, 91, 838 P.2d 896 (1992).

60. Public golf course noted as recreational use exception (75-6104(o)); nature of employee's negligence generally question for trier of fact. *Gruhin v. City of Overland Park*, 17 K.A.2d 388, 389, 836 P.2d 1222 (1992).

61. Liability of state noted where law enforcement employee breaches specific duty owed to individual rather than general public (75-6109(n)). *Washington v. State*, 17 K.A.2d 518, 519, 839 P.2d 555 (1992).

62. Action under act properly appealed pursuant to 12-105b. *Larson v. Ruskowitz*, 252 K. 963, 965, 850 P.2d 253 (1993).

63. Discretionary function exception (75-6104(e)), duty city owed in owning/operating electric plant and distribution system examined. *Lamb v. City of Elsmore*, 18 K.A.2d 641, 643, 857 P.2d 1380 (1993).

64. Whether defendants were immune from liability under 42 U.S.C.A. 1983 because defendants may have been immune under KTCA (75-6101 et seq.) examined. *Reidenbach v. U.S.D. #437*, 878 F.Supp. 178, 181 (1995).

75-6102. Definitions. As used in K.S.A. 75-6101 through 75-6118, and amendments thereto, unless the context clearly requires otherwise:

(a) "State" means the state of Kansas and any department or branch of state government, or any agency, authority, institution or other instrumentality thereof.

(b) "Municipality" means any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof.

(c) "Governmental entity" means state or municipality.

(d) "Employee" means any officer, employee, servant or member of a board, commission, committee, division, department, branch or council of a governmental entity, including elected or appointed officials and persons acting on behalf or

in service of a governmental entity in any official capacity, whether with or without compensation and a charitable health care provider. Employee includes any steward or racing judge appointed pursuant to K.S.A. 74-8818, and amendments thereto, regardless of whether the services of such steward or racing judge are rendered pursuant to contract as an independent contractor, but does not otherwise include any independent contractor under contract with a governmental entity except (1) employees of the United States marshal's service engaged in the transportation of inmates on behalf of the secretary of corrections and (2) a person who is an employee of a nonprofit independent contractor, other than a municipality, under contract to provide educational or vocational training to inmates in the custody of the secretary of corrections and who is engaged in providing such service in an institution under the control of the secretary of corrections provided that such employee does not otherwise have coverage for such acts and omissions within the scope of their employment through a liability insurance contract of such independent contractor. "Employee" also includes an employee of an indigent health care clinic. "Employee" also includes former employees for acts and omissions within the scope of their employment during their former employment with the governmental entity.

(e) "Community service work" means public or community service performed by a person (1) as a result of a contract of diversion entered into by such person as authorized by law, (2) pursuant to the assignment of such person by a court to a community corrections program, (3) as a result of suspension of sentence or as a condition of probation pursuant to court order, (4) in lieu of a fine imposed by court order or (5) as a condition of placement ordered by a court pursuant to K.S.A. 38-1663, and amendments thereto.

(f) "Charitable health care provider" means a person licensed by the state board of healing arts as an exempt licensee or a federally active licensee, a person issued a limited permit by the state board of healing arts or a health care provider as the term "health care provider" is defined under K.S.A. 65-4921, and amendments thereto, who has entered into an agreement with:

(1) The secretary of health and environment under K.S.A. 1995 Supp. 75-6120, and amendments thereto, who, pursuant to such agreement, gratuitously renders professional services to a person who has provided information which would

reasonably lead the health care provider to make the good faith assumption that such person meets the definition of medically indigent person as defined by this section or to a person receiving medical assistance from the programs operated by the department of social and rehabilitation services, and who is considered an employee of the state of Kansas under K.S.A. 1995 Supp. 75-6120, and amendments thereto; or

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

(3) a local health department or indigent health care clinic, which renders professional services to medically indigent persons or persons receiving medical assistance from the programs operated by the department of social and rehabilitation services gratuitously or for a fee paid by the local health department or indigent health care clinic to such provider and who is considered an employee of the state of Kansas under K.S.A. 1995 Supp. 75-6120 and amendments thereto. Professional services rendered by a provider under this paragraph (3) shall be considered gratuitous notwithstanding fees based on income eligibility guidelines charged by a local health department or indigent health care clinic and notwithstanding any fee paid by the local health department or indigent health care clinic to a provider in accordance with this paragraph (3).

(g) "Medically indigent person" means a person who lacks resources to pay for medically necessary health care services and who meets the eligibility criteria for qualification as a medically indigent person established by the secretary of health and environment under K.S.A. 1995 Supp. 75-6120, and amendments thereto.

(h) "Indigent health care clinic" means an outpatient medical care clinic operated on a not-for-profit basis which has a contractual agreement in effect with the secretary of health and environment to provide health care services to medically indigent persons.

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

History: L. 1979, ch. 186, § 2; L. 1982, ch. 374, § 1; L. 1983, ch. 299, § 1; L. 1987, ch. 353, § 1; L. 1990, ch. 146, § 4; L. 1990, ch. 329, § 2; L. 1990, ch. 149, § 9; L. 1991, ch. 268, § 1; L.

1991, ch. 182, § 5; L. 1993, ch. 29, § 2; L. 1994, ch. 343, § 1; L. 1995, ch. 82, § 7; July 1.

Cross References to Related Sections:

Persons licensed by state board of healing arts as exempt licensees, see 65-2809.

Attorney General's Opinions:

Person covered by act; faculty of Kansas College of Technology. 89-81.

Volunteers working for state long-term care ombudsman. 90-21.

Interlocal cooperation agreements; separate legal entities; municipalities; school districts. 91-4.

Application of Kansas tort claims act to Kansas healthy kids corporation and corporation for change. 93-62.

Persons engaged in residency training for services to indigent health care clinics are covered under Kansas tort claims act. 93-74.

Licensure exempt status for military physicians under Kansas healing arts act; continuing education; liability insurance; expiration. 94-91.

City-county health department employees are covered by the Kansas tort claims act. 94-135.

Kansas development finance authority; officers' and directors' exemption from liability; applicability of Kansas tort claims act. 94-140.

Giving a false alarm by fire department; possible liability under Kansas tort claims act. 95-40.

CASE ANNOTATIONS

5. Board of county commissioners liable for negligent acts and omissions of sheriff's department under tort claims act. *Eames v. Board of County Comm'rs*, 733 F.Supp. 322, 324 (1990).

6. School district's responsibility in failing to follow established procedure involving child abuse allegations against third party's employee/bus driver examined. *Kansas State Bank & Tr. Co. v. Specialized Transportation Services, Inc.*, 249 K. 348, 364, 819 P.2d 587 (1991).

7. State department of revenue properly sued for negligent examination of motor vehicle title examination. *Mid American Credit Union v. Board of Sedgwick County Comm'rs*, 15 K.A.2d 216, 224, 806 P.2d 479 (1991).

8. Police officers' duty to exercise care and diligence required of officers; when protected by act. *Allen v. Board of Comm'rs of County of Wyandotte*, 773 F.Supp. 1442 (1991).

9. Public golf course noted as recreational use exception (75-6104(o)); nature of employee's negligence generally question for trier of fact. *Gruhin v. City of Overland Park*, 17 K.A.2d 388, 389, 836 P.2d 1222 (1992).

10. Liability of state noted where law enforcement employee breaches specific duty owed to individual rather than general public (75-6109(n)). *Washington v. State*, 17 K.A.2d 518, 520, 839 P.2d 555 (1992).

11. Discretionary function exception (75-6104(e)), duty city owed in owning/operating electric plant and distribution system examined. *Lamb v. City of Elsmore*, 18 K.A.2d 641, 644, 857 P.2d 1380 (1993).

12. Whether city-county board of health has the capacity to sue or be sued examined. *Lindenman v. Umscheid*, 255 K. 610, 630, 875 P.2d 964 (1994).

13. Whether foster parents were independent contractors or SRS employees for KTCA (75-6101 et seq.) examined. *Mitz-*

ATTACHMENT B

65-1136 Intravenous fluid therapy; definitions. (a) As used in this section.

(1) "Provider" means a person who is approved by the board to administer an examination and to offer an intravenous fluid therapy course which has been approved by the board.

(2) "Person" means an individual, organization, agency, institution or other legal entity.

(3) "Examination" means an intravenous fluid therapy competency examination approved by the board.

(4) "Supervision" means provision of guidance by a qualified nurse for the accomplishment of a nursing task or activity with initial direction of the task or activity and periodic inspection of the actual act of accomplishing the task or activity.

(b) A licensed practical nurse may perform a limited scope of intravenous fluid therapy under the supervision of a registered professional nurse.

(c) A licensed practical nurse may perform an expanded scope of intravenous fluid therapy, under the supervision of a registered professional nurse, if the license practical nurse:

(1) Has had one year of clinical experience and successfully completes an intravenous fluid therapy course given by an approved provider and passes an intravenous fluid therapy examination administered by an approved provider;

(2) has had one year of clinical experience, has performed intravenous fluid therapy prior to the effective date of this act and has successfully passed an examination; or

(3) has had one year of clinical experience, has successfully completed an intravenous fluid therapy course not given by an approved provider and has passed an intravenous fluid therapy examination not administered by an approved provider or approved by the board and, upon application to the board for review and approval of such course and examination, has had the board determine that such course and examination meets or exceeds the standards required under this act for an approved course and approved examination administered by a provider.

(d) The board may adopt rules and regulation:

(1) Which define the limited and expanded scope of practice of intravenous fluid therapy which may be performed by a licensed practical nurse under the supervision of a registered professional nurse;

(2) which restricts specific intravenous fluid therapy practices;

(3) which prescribe standards for an intravenous fluid therapy course and examination required of an approved provider;

(4) which govern provider record requirements;

(5) which prescribe the procedure to approve, condition, limit and withdraw approval as a provider; and

(6) which further implement the provisions of this section.

(e) An advisory committee of not less than two board members and five nonboard members shall be established by the board to advise and assist the board in implementing this section as determined by the board. The advisory committee shall meet at least annually. Members of the advisory committee shall receive amounts provided for in subsection (e) of K.S.A. 75-3223 and amendments thereto for each day of actual attendance at any meeting of the advisory committee or any subcommittee meeting of the advisory committee authorized by the board.

(f) On and after July 1, 1995, no licensed practical nurse shall perform intravenous fluid therapy unless qualified to perform intravenous fluid therapy under this section and rules and regulation adopted by the board.

(g) Nothing in this section shall be construed to prohibit the performance of intravenous fluid

therapy by a registered nurse.

(h) Nothing in this section shall be construed to prohibit performance of intravenous fluid therapy by a license practical nurse when performed by delegation of a person licensed to practice medicine and surgery or dentistry.

(i) This section shall be part of and supplemental to the Kansas nurse practice act.

History: L. 1994, CH. 218, §; April 21.