

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Vice-Chairperson John Morrison, at 1:30 p.m. on March 18, 1997 in Room 423-S of the State Capitol.

All members were present except: Representative Carlos Mayans

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

Conferees appearing before the committee:

Patsy Johnson, Executive Administrator, Kansas State Board of Nursing  
Terri Roberts, Kansas State Nurses Association  
Betty Smith-Campbell, President, Kansas State Nurses Association  
Joan Sevy, President, Kansas Organization of Nurse Leaders

Others attending: See Guest List (Exhibit 1)

Vice-Chairperson Morrison distributed a letter to the committee, dated March 18, 1997, in which Mark Stafford, General Counsel, Kansas Board of Healing Arts, renounced the amendment to **SB 221** (health care providers peer review and risk management) offered by the Trial Lawyers Association at yesterday's meeting. Mr. Stafford described the effects of the proposed amendment, and stated he believes the amendment would dissolve peer review (see letter, Exhibit 2).

The vice-chairperson opened the hearing on **SB 164 - Board of nursing authorized to issue exempt licenses and collect fees**. He introduced Patsy Johnson, Executive Administrator, Kansas State Board of Nursing.

Ms. Johnson offered testimony in support of **SB 164**, and summarized the changes caused by the bill (see Exhibit 3). Emalene Correll, noting that it is inappropriate to include Section 11 in this bill as the section would amend the risk management act. The Kansas Department of Health and Environment (KDHE) registers those licensed professionals who are listed for the Charitable Health Care Provider Act, and KDHE advises that only the licensed status is recognized for the purposes of that act and the fact that a nurse practices at a higher level is not noted on their register. Ms. Correll noted that unless Section 11 is amended, it should be deleted. Ms. Johnson agreed that if the nurses are protected at a higher level by the other act, it makes no difference to the Board if this section is deleted from the bill.

Representative Geringer asked about the Board's recommendation to delete Section 11, on page 15. Ms. Johnson stated she understood that ARNP's need not be included in this bill as they are covered by the charitable care act.

Terri Roberts, Kansas State Nurses Association, introduced Betty Smith-Campbell, President of the Association. Ms. Campbell testified in support of the bill and offered amendments to: (1) prohibit licensing of felons convicted of crimes against persons, and (2) narrow the required plan of study to relate to deficiencies identifiable on the failed examination profiles with respect to taking additional licensure examinations. (See testimony, Exhibit 4).

Joan Sevy, President, Kansas Organization of Nurse Leaders, testified in support of **SB 164** (see Exhibit 5).

There being no others present to testify on **SB 164**, the hearing was closed. The chairman called for action on the bill.

Representative Freeborn moved that **SB 164** be amended on pages 2, 4, 6, and 13 as shown on the attached "Reports of Standing Committees" (Exhibit 6). The motion was seconded by Representative Geringer. The motion carried.

Representative Henry moved, seconded by Representative Freeborn, that **SB 164** be amended on pages 15, 16, and the title on page 1, as shown on the attached "Reports of Standing Committees" (Exhibit 6). The motion carried.

CONTINUATION PAGE

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S of the State Capitol, at 1:30 p.m. on March 18, 1997.

Representative Freeborn moved, seconded by Representative Showalter, that SB 164 be passed favorably, as amended. Motion carried. Representative Freeborn will carry the bill on the House floor.

The vice-chairperson opened the hearing on **SB 165 - Board of nursing licensees, continuing education and membership on the board.**

Patsy Johnson, Kansas State Board of Nursing, testified in support of the bill, which was introduced at the request of the Board. She directed attention to her written testimony, which summarized the various changes recommended by the Board and the amendments made by the Senate Public Health and Welfare Committee. Ms. Johnson stated that the Board does not oppose the addition of one registered professional nurse to the board, but is opposed to deleting one licensed mental health technician from the board (see page 3 of Exhibit 3 for testimony). She also stated that the cost to add a registered nurse to the board would be \$2,500 per year.

Vice-Chairperson Morrison noted that if two are added to the board as recommended, the board's makeup will be twelve--an even number.

Emalene Correll asked if there were other states who license personnel analogous to the question of LMHT's on the board, like Kansas? Ms. Johnson stated that California, Colorado, and Arkansas do. Oregon is debating the question in light of their moving mental health and mentally retarded to homes so consequently there are fewer LHMT's. Emalene asked if Kansas is seeing a decrease in the number of LHMT's and if so, is there a need to look at whether this particular category meets the needs of the people as they move into community homes versus institutions? Ms. Johnson stated there may be a need, but believe it is a little early to consider. There is no longer a separate association for LMHT's. Ms. Johnson stated that the board needs the participation of LHMT's in terms of the work of the committees. Representative Freeborn questioned the even number (12) of board members. Ms. Johnson answered that the board president seldom votes, and because some members are usually absent, the need for a tie break would rarely occur.

Joan Sevy, Kansas Organization of Nurse Leaders (KONL), testifying in favor of **SB 165**, also explained the rationale for the Senate's amendment to change the member composition of the board by eliminating one LMHT position and her organization's suggestion to add one registered nurse position. She does not agree with the philosophy of the board, saying that nurses come from a variety of backgrounds (even psychiatric). (See written testimony, Exhibit 5.)

Betty Smith-Campbell, Kansas State Nurses Association, in support of **SB 165**, stated that the association supports KONL's recommendation on the board composition (see Exhibit 7).

There were no others present to testify on **SB 165**, so the hearing was closed.

After discussion, Representative Freeborn moved, seconded by Representative Hutchins, that SB 165 be passed favorably. The motion carried. Representative Welshimer will carry the bill.

Vice-Chairperson Morrison then noted that the committee heard **SB 221 (health care providers peer review and risk management)** yesterday. He described his experience with the peer review process and found in the process that it is an important disciplinary tool for professionals and a significant tool for assuring the public of good medical care. The vice-chairperson stated that he believes the confidentiality of the peer review process is required and asked the committee to determine if it wants to assure autonomy and confidentiality of the peer review process. He asked the two attorneys (members of the committee)--Representative Haley and Representative Powell--to describe the provisions of the bill.

Representative Haley stated that the purpose obviously is to allow licensing agencies to hold disciplinary hearings and insure that at that level there is disclosure to the general public, but that the peer process is to remain confidential so that participants in the peer review process have no recriminations.

Representative Powell stated that the proposed amendment allows all documents and records of a proceeding generated by peer review is privileged. In addition, it provides that evidence introduced at the peer review proceeding gives the licensing agency authority to issue a protective order to prohibit disclosure of the evidence. The Kansas Medical Society amendment would require the licensing agency to not rely solely on peer review records but individually develop records or testimony that is open to the public and that testimony would be discoverable. Representative Powell said the proposed amendment denotes a policy question: Does the committee believe this information should be confidential or not. He believes it should be.

CONTINUATION PAGE

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S of the State Capitol, at 1:30 p.m. on March 18, 1997.

Representative Gilmore questioned if the public has a right to know if their physician has been performing certain medical procedures and then disciplined for them. She believes the public needs to know. Representative Geringer stated that if the peer review material is made public, there will be no point for such a review. Representative Showalter, as a nurse, said there are no tougher judges of a nurse's performance than another nurse. Norm Furse stated every couple of years amendments like this are offered because of tensions between the professionals and how it applies in the real world.

Representative Powell moved, seconded by Representative Hutchins, that SB 221 be amended on page 3, line 25, before the word "Unless", the following be added: "A licensing agency in conducting a disciplinary proceeding in which admission of any report, record or testimony relating to any report or record under this section is proposed shall hold the hearing in closed session when any such report, record or testimony is disclosed." The motion carried.

Representative Freeborn moved, seconded by Representative Hutchins, that SB 221 be further amended on page 4, line 5, by striking all after the period; by striking all in lines 6 through 10 and inserting in lieu thereof the following: "A licensing agency conducting a disciplinary proceeding may not rely solely on peer review committee records, testimony or reports and must prove its findings with independently obtained testimony or record which shall be presented as part of the disciplinary proceeding in open meeting of the licensing agency. Offering such testimony or records in an open public hearing shall not be deemed a waiver of the peer review privilege relating to any peer review committee testimony, records or report."

Emalene Correll asked if an appeal is made on a board's actions, is the appeal taken only on the board's independent action. Representative Powell answered that any confidential material offered in evidence would most like be handled by an "in camera" review by the district court and would be privileged. Representative Powell stated that evidence obtained by independent investigation by a licensing board and the board's decision is obtainable by the public.

The vice-chairperson called for vote on the motion. Representative Gilmore in a substitute motion, moved that an amendment on page 4, lines 5 through 10, by inserting the following: "A licensing agency may not rely solely on peer review committee findings but must provide all of its findings to the public." The vice-chairperson stated Representative Gilmore's amendment was the Trial Lawyers amendment offered at yesterday's meeting. There was no second to the motion, therefore it failed. On call of the original motion, the motion carried.

Emalene Correll noted that the amendment just adopted related only to the Peer Review Act, it does not amend the risk management act.

Representative Powell moved that parallel language to that just adopted be amended into the risk management act. Representative Freeborn seconded the motion. The motion carried. (See "Reports of Standing Committees," last paragraph of page 1 and all of page 2 for amendment, Exhibit 8.)

On motion of Representative Powell, seconded by Representative Freeborn, the committee voted to pass SB 221 favorably, as amended. Representative Powell will carry the bill on the floor of the House.

The meeting adjourned at 3:08 p.m.

The next meeting is scheduled for March 19, 1997.

**HOUSE COMMITTEE ON HEALTH AND HUMAN  
SERVICES COMMITTEE GUEST LIST  
MARCH 18, 1997**

NAME	REPRESENTING
Joan M. Jency	KONL
Betty Smith-Campbell	KSNW
Dawn Reid	KSNW
Jenni Roberts	KSNW
Michelle Peterson	Peterson Public Affairs
Pat Johnson	Bd of Nursing
Pat McElroy	KSNW
Susan Baker	Hain + Wein
David Kern	KAM
Ellen Swartz	KWS
LARRY BURNING	Bd OF HEALING ARTS
Tom Bell	Ks-Hosp-Assn
Mark Stafford	Bd of Healing Arts

# 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

The Honorable Jim Morrison  
State Representative  
Statehouse, Room 174-W  
Topeka, Kansas

March 18, 1997

Re: 1997 Senate Bill No. 221

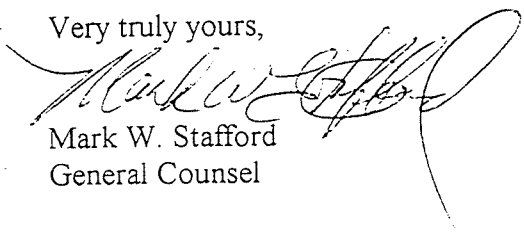
Dear Representative Morrison:

Thank you for the opportunity to testify yesterday in the Committee on Health and Human Services regarding Senate Bill 221. The Trial Lawyers Association submitted a proposed amendment to the bill which would provide that if the Board did not submit independently obtained investigatory material, the peer review privilege would be waived. Representative Geringer asked whether the Board supported the proposed amendment. I responded that I had not had sufficient time to consider the language.

After reviewing the language, I do not believe that the amendment proposed by the Trial Lawyers Association is acceptable. The amendment would place the Board, or the Board's disciplinary counsel, in the position of waiving a privilege which belongs to another entity. This is generally not the way privileges are to be waived. It has long been the practice that the holder of the privilege is the one who may waive the privilege. Additionally, the language submitted by the Trial Lawyers Association would force, or at least encourage, the Board to offer as evidence information which may not be relevant to the issues then pending. Failure to offer the evidence would have the very result the Trial Lawyers seek, that is, to dissolve peer review.

Once again, thank you for the opportunity to present this information to you. If additional testimony regarding the Board's processes would be helpful, please feel free to let me know.

Very truly yours,

  
Mark W. Stafford  
General Counsel

**MEMBERS OF BOARD**

HOWARD D. ELLIS, M.D., PRESIDENT

LEAWOOD

JOHN P. GRAVINO, D.O., VICE-PRESIDENT

LAWRENCE

DONALD B. BLETZ, M.D., OVERLAND PARK

C.J. CONRADY, JR., ANTHONY

JAMES D. EDWARDS, D.C., EMPORIA

EDWARD J. FITZGERALD, M.D., WICHITA

ROBERT L. FRAYSER, D.O., HOISINGTON

LANCE MALMSTROM, D.C., TOPEKA

LAUREL H. RICKARD, MEDICINE LODGE

CHRISTOPHER P. RODGERS, M.D., HUTCHINSON

F. AROLD J. SAUDER, D.P.M., INDEPENDENCE

EMILY TAYLOR, LAWRENCE

ROGER D. WARREN, M.D., HANOVER

JOHN P. WHITE, D.O., PITTSBURG

RONALD J. ZOELLER, D.C., TOPEKA

**HOUSE HEALTH/HUMAN SERVICES**

Attachment 2

3 - 18 - 97

# Kansas State Board of Nursing

Landon State Office Building  
900 S.W. Jackson, Rm. 551  
Topeka, Kansas 66612-1230  
913-296-4929  
FAX 913-296-3929



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

To: The Honorable Representative Carlos Mayans, Chairperson  
and Members of the Health & Human Services Committee

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

Date: March 18, 1997

Re: SB 164

Thank you for allowing me to testify on SB 164 for the Board of Nursing. The Board of Nursing introduced this bill to clarify some language, to add some provisions to improve agency processes for greater efficiency, and to establish an exempt license or certification for individuals who want to work in charitable health care settings.

I have summarized the changes on the next four pages. There were a few amendments by the Senate Public Health and Welfare Committee. The Board is not opposed to those changes. (Board comment is in bold.)

I will be happy to speak to any issues with this bill.

I hope the committee will pass SB 164 favorably. Thank you.

HOUSE HEALTH/HUMAN SERVICES  
Attachment 3-1  
3-18-97

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

Patricia McKillip, R.N., Ph.D.  
Education Specialist  
296-3782

Diane Glynn, R.N., J.D.  
Practice Specialist  
296-4325

Mark S. Braun, J.D.  
Assistant Attorney General  
Disciplinary Counsel  
296-4325

## Summary SB 164

### Section 1. K.S.A. 65-1115

- (a) Allows Board not to get documentation of high school graduation unless needed. Nursing schools screen for high school equivalency.
- (c)(2) Clarification of language which allows licensed nurses from other states to endorse into Kansas after verification of licensure.
- (c)(5) If a graduate of a nursing program does not pass licensure examination in 24 months, then has to submit and complete a plan of study before the individual can re-test. **Although different from what the Board suggested, the Board will support this amendment. Setting a time limit does not allow a graduate to test repeatedly over a long time period.**
- (c)(6) Will allow the Board to set a time limit on how long agency will hold applications awaiting required documentation for licensure.
- (e) Combines 90 and 30 day temporary permit into one for 120 days. Allows 120 temporary permit to foreign graduate while awaiting testing.
- (f) Establishes an exempt status for nurses to work in charitable health care settings.

### Section 2. K.S.A. 65-1116

The same changes to be made for the Licensed Practical Nurse as Registered Professional Nurse in K.S.A. 65-1115.

### Section 3. K.S.A. 65-1118

- (a) Increase in the statute limitation for renewal and reinstatement of ARNP certificate.  
  
Creates fees for the initial and renewal of exempt licenses and certificates.

**Section 4. K.S.A. 65-1120**

- (a)(2) Places the responsibility on the applicant who has a felony or misdemeanor illegal drug conviction to provide proof of sufficient rehabilitation before the Board will license the individual.

**The Board is supportive of the amendment which restricts licensure for a person convicted of a crime against persons. There is a correction in that crimes against persons is in article 34 rather than 37. See Attachment A for misdemeanors and felonies - Board of Nursing.**

**One possible conflict in this new provision would be to K.S.A. 74-120 which notes felony convictions will not be a bar to licensure, certification, or registration. See Amendment B. The Kansas State Nurses Association will be presenting a balloon to this statute which the Board of Nursing does support.**

- (f) Would allow Board to get arrest information as well criminal convictions on applicants. **The Board is not opposed being charged for arrest and conviction histories from the KBI.**

**Section 5. K.S.A. 65-1124**

- (k) Clarification of delegation by nurses in school settings.

**Section 6. K.S.A. 65-1131**

- (a)(2) Clarification of language which allows advanced registered nurse practitioners from other states to endorse into Kansas after verification of certification.
- (a)(4) Will allow the Board to set a time limit on how long agency will hold applications awaiting required documentation for certification.
- (c) Establishes an exempt status for ARNP's to work in charitable health care settings.



**Section 7. K.S.A. 65-1152**

- (b) Revision to accredit registered nurse anesthesia programs under standards for advanced practice programs rather than undergraduate programs.

**Section 8. K.S.A. 65-4203**

- (a) Allows Board not to get documentation of high school graduation. Nursing schools screen for high school equivalency.
- (b) Does not allow for endorsement from another state since licensure examination is not standardized. Would require applicant to pass Kansas licensure exam.
- (c) If a graduate of a mental health technology program does not pass licensure examination in 24 months, then has to submit and complete a plan of study before the individual can re-test. **Same comment as in K.S.A. 65-1115 (c)(5).**
- (d) Will allow the Board to set a time limit on how long agency will hold applications awaiting required documentation for licensure.
- (f) Establishes an exempt status for LMHT's to work in charitable health care settings.

**Section 9. K.S.A. 65-4208**

- (a) Increase in the statute limitation for renewal of LMHT license.  
Creates fees for the initial and renewal of exempt LMHT licenses.

**New Section 10. K.S.A. 65-4209**

The same changes to be made for the Licensed Mental Health Technician as Registered Professional and Practical Nurse in K.S.A. 65-1120.

**Section 11. K.S.A. 65-4921**

- (c) Adds ARNP to list of health care providers which is referenced in statute on charitable health care.

# Kansas State Board of Nursing

## MISDEMEANORS

## FELONIES

	1993	1994	1995	1996		1993	1994	1995	1996
Driving violations			3	8	Drugs	4	4	4	2
DUI/intoxication	2	9	13	18	Bad Check			1	
Bad Check	8	7	15	22	Battery/Assault		2	1	1
Battery/Assault	8	9	10	8	Murder				1
Forgery	1	1	1		Forgery	1	1	1	2
Theft	6	4	10	4	Theft/Burglary	4	9	9	6
Possession Gun	1		3		Criminal solicitation				1
Aiding felon				2	Aiding felon			1	
False report	2	3		4	Forgery	1	1	1	2
Fraud	2	4	1	1	Fraud	2	1	2	1
Shoplifting	5	6	7	5	Threat—crime/terror	1		1	
Larceny	1	3	1	3	Larceny			1	
Possession drugs	1	2	2	1	Arson		1		
Incident with minor		4	4	1	Bribery	1			
Disorderly conduct		3	11	3	Disorderly conduct			1	
Loitering		1	2		Postal code		1		
Tresspass		6	2	2	Tresspass			1	
Embezzlement		1	1		Embezzlement			1	
Incident – sex		1	2	2	Incident – sex			1	
Danger to property				2	Damage to property		1		
Misdemeanors involving illegal drugs	14	26	33	8					
<b>TOTAL</b>	<b>51</b>	<b>90</b>	<b>118</b>	<b>86</b>	<b>TOTAL</b>	<b>14</b>	<b>21</b>	<b>26</b>	<b>16</b>

3-6

Attachment A

## ATTACHMENT B

**74-120.** Consideration of felony convictions of applicants for licensure by state agencies. Notwithstanding any other provision of law, any person, board, commission or similar body who determines the qualifications of individuals for licensure, certification or registration may consider any felony conviction of the applicant, but such a conviction shall not operate as a bar to licensure, certification or registration.

**History:** L. 1972, ch. 231, § 12; July 1.



700 SW Jackson, Suite 601  
Topeka, Kansas 66603-3731

913/233-8638 \* FAX 913/233-5222

the Voice of Nursing in Kansas

Betty Smith-Campbell, Ph.D., R.N.  
President

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

For More Information Contact  
Terri Roberts J.D., R.N.  
Executive Director  
Kansas State Nurses Association  
(913) 233-8638

March 18, 1997

## S.B. 164 NURSE PRACTICE ACT CHANGES

Representative Morrison, and members of the House Health and Human Services Committee, my name is Betty Smith-Campbell Ph.D., R.N. and I am the current President of the Kansas State Nurses Association. We are pleased to be here today to testify on S.B. 164 which makes some necessary changes to the Nurse Practice Act.

Overall, the professional organization is very supportive of the changes being proposed in the bill to include:

Establishment of exempt license or certification for registered professional and licensed practice nurses, licensed mental health technicians, and advanced registered nurse practitioners who wish to provide voluntary services for charitable health care providers.

Establishment of an application fees for exempt license or certification.

Increase of the fee cap for licensed mental health technician (LMHT) and advanced registered nurse practitioner (ARNP) license and certification renewal.

Clarification of the existing exemption for nurses to delegate nursing procedures in the school setting.

Extension of time for temporary permits from 90 days to 120 days.

Changing the reference in the Registered Nurse Anesthetists statute to refer to the ARNP School Curriculums instead of the RN School Curriculum standards.

Changing the time period of GN's/GPN's to take the NCLEX exam to as many times as they can take it in 24 months to pass it, knowing that the Computerized test can be retaken every 91 days.

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**

**HOUSE HEALTH/HUMAN SERVICES**

Attachment 4-1  
3 - 18 - 97

**Kansas State Nurses Association**

**March 18, 1997**

**S.B. 164**

We requested and the Senate amended S.B. 164 to add a prohibition on licensure for "convicted felons of crimes against persons". The issue of licensing convicted felons as registered nurses is one that in the recent year has received considerable attention with the death of a female coed from Pittsburg State University by a senior nursing student with a prior felony conviction for second-degree murder. Currently in Kansas, child care workers, teachers and physicians cannot be licensed/renewed if they are convicted felons. In Oregon, Florida and Texas nurses convicted of felons are prohibited from licensure. We support an absolute prohibition on licensing felons convicted of crimes against persons. The criminal code article referred to in S.B. 164 page 6, line 32 and again on page 13 line 39 should be **Article 34 versus 37**. Additionally, our more thorough review of the statutes indicates that an amendment might be in order to more fully implement the intent of this change. We have prepared a ballon for the two sections that adds the language "notwithstanding K.S.A. 74-120" to make the statutory intent clearer. K.S.A. 74-120 is a statute that was enacted in 1972 which addresses consideration of felony convictions of applicants for licensure by state agencies. We hope that you can support this amendment as proposed.

The Senate committee amended S.B. 164 to retain the current language related to how the Board of Nursing handles graduates who repeatedly fail the licensure exam, and the language reads:

Persons who are unsuccessful in passing the licensure examination within 24 months after graduation 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 a subsequent time.

The plan of study language is quite broad and may be more appropriately narrowed by relating the proposed plan of study to the deficiency elements identified during the licensure examination. Language to consider might include:

The board may require the applicant to submit and complete a plan of study related to deficiencies identified on the failed exam profiles prior to taking the licensure examination for a subsequent time.

We hope that you will support S.B. 164 and incorporate the changes that we have recommended today. Many of the changes included in the bill would serve the public well if enacted.

KANSAS STATE NURSES ASSOCIATION  
AMENDMENTS TO S.B. 164  
March 18, 1997

4-3

1 Application for biennial renewal of exempt license—professional and prac-  
2 tical nurse ..... 50  
3 Application for exempt certification—advanced registered nurse  
4 practitioner ..... 50  
5 Application for biennial renewal of exempt certificate—advanced regis-  
6 tered nurse practitioner ..... 50

7 (b) The board may require that fees paid for any examination under  
8 the Kansas nurse practice act be paid directly to the examination service  
9 by the person taking the examination.

10 Sec. 4. K.S.A. 1996 Supp. 65-1120 is hereby amended to read as  
11 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may  
12 deny, revoke, limit or suspend any license, certificate of qualification or  
13 authorization to practice nursing as a registered professional nurse, as a  
14 licensed practical nurse, as an advanced registered nurse practitioner or  
15 as a registered nurse anesthetist that is issued by the board or applied for  
16 under this act or may publicly or privately censure a licensee or holder  
17 of a certificate of qualification or authorization, if the applicant, licensee  
18 or holder of a certificate of qualification or authorization is found after  
19 hearing:

20 (1) To be guilty of fraud or deceit in practicing nursing or in procuring  
21 or attempting to procure a license to practice nursing;

22 (2) to have been guilty of a felony or ~~to have been guilty of to have~~  
23 ~~been guilty of~~ a misdemeanor involving an illegal drug offense, if the  
24 board determines, after investigation, that such person has not been suf-  
25 ficiently rehabilitated or a violation of corresponding municipal ordinance  
26 involving an illegal drug offense unless the applicant or licensee estab-  
27 lishes sufficient rehabilitation to warrant the public trust, ~~except that no~~  
28 ~~license, certificate of qualification or authorization to practice~~  
29 ~~nursing as a licensed professional nurse, as a licensed practical~~  
30 ~~nurse, as an advanced registered nurse practitioner or registered~~  
31 ~~nurse anesthetist shall be granted to a person with a felony convic-~~  
32 ~~tion for a crime against persons as specified in article 37 of chapter~~  
33 ~~21 of the Kansas Statutes Annotated and acts amendatory thereof~~  
34 ~~or supplemental thereto;~~

notwithstanding K.S.A. 74-120,

35 (3) to have committed an act of professional incompetency as defined  
36 in subsection (e);

37 (4) to be unable to practice with skill and safety due to current abuse  
38 of drugs or alcohol;

39 (5) to be a person who has been adjudged in need of a guardian or  
40 conservator, or both, under the act for obtaining a guardian or conser-  
41 vator, or both, and who has not been restored to capacity under that act

42 (6) to be guilty of unprofessional conduct as defined by rules and  
43 regulations of the board:

34 (Crimes Against Persons)

**74-120.** Consideration of felony convic-  
tions of applicants for licensure by state agen-  
cies. Notwithstanding any other provision of  
law, any person, board, commission or similar  
body who determines the qualifications of in-  
dividuals for licensure, certification or regis-  
tration may consider any felony conviction of  
the applicant, but such a conviction shall not  
operate as a bar to licensure, certification or  
registration.

History: L. 1972, ch. 231, § 12; July 1.

**KANSAS STATE NURSES ASSOCIATION  
AMENDMENTS TO S.B. 164  
March 18, 1997**

1	(b) Mental health technicians:	
2	Application for license .....	\$50
3	Application for renewal of license.....	30 60
4	Application for reinstatement .....	36 70
5	Application for reinstatement of license with temporary permit .....	75
6	Certified copy of license.....	12
7	Duplicate of license.....	12
8	Inactive license.....	20
9	Examination .....	40
10	Reexamination .....	40
11	Verification of current Kansas license to other states .....	11
12	Application for exempt license.....	50
13	Application for biennial renewal of exempt license.....	50
14	<b>Sec. 10. K.S.A. 1996 Supp. 65-4209 is hereby amended to read</b>	
15	<b>as follows: 65-4209. (a) The board may deny, revoke, limit or sus-</b>	
16	<b>pend any license to practice as a mental health technician issued or</b>	
17	<b>applied for in accordance with the provisions of this act, may pub-</b>	
18	<b>licly or privately censure a licensee or may otherwise discipline a</b>	
19	<b>licensee upon proof that the licensee:</b>	
20	<b>(1) Is guilty of fraud or deceit in procuring or attempting to</b>	
21	<b>procure a license to practice mental health technology;</b>	
22	<b>(2) is unable to practice with reasonable skill and safety due to</b>	
23	<b>current abuse of drugs or alcohol;</b>	
24	<b>(3) to be a person who has been adjudged in need of a guardian</b>	
25	<b>or conservator, or both, under the act for obtaining a guardian or</b>	
26	<b>conservator, or both, and who has not been restored to capacity</b>	
27	<b>under that act;</b>	
28	<b>(4) is incompetent or grossly negligent in carrying out the func-</b>	
29	<b>tions of a mental health technician;</b>	
30	<b>(5) has committed unprofessional conduct as defined by rules</b>	
31	<b>and regulations of the board;</b>	
32	<b>(6) has been convicted of a felony or has been convicted of a</b>	
33	<b>misdemeanor involving an illegal drug offense, if the board deter-</b>	
34	<b>mines, after investigation, that the person has not been sufficiently re-</b>	
35	<b>habilitated unless the applicant or licensee establishes sufficient rehabili-</b>	
36	<b>tation to warrant the public trust, except that no license, certificate of</b>	
37	<b>qualification or authorization to practice as a licensed mental health tech-</b>	
38	<b>nician shall be granted to a person with a felony conviction for a crime</b>	
39	<b>against persons as specified in article 37 of chapter 21 of the Kansas</b>	
40	<b>Statutes Annotated and acts amendatory thereof or supplemental thereto;</b>	
41	<b>(7) has committed an act of professional incompetency as de-</b>	
42	<b>finied in subsection (e);</b>	
43	<b>(8) to have willfully or repeatedly violated the provisions of the</b>	

4-4

**74-120.** Consideration of felony convictions of applicants for licensure by state agencies. Notwithstanding any other provision of law, any person, board, commission or similar body who determines the qualifications of individuals for licensure, certification or registration may consider any felony conviction of the applicant, but such a conviction shall not operate as a bar to licensure, certification or registration.

History: L. 1972, ch. 231, § 12; July 1.

notwithstanding K.S.A. 74-120,

34 (Crimes against persons)



KANSAS STATE NURSES ASSOCIATION  
 AMENDMENTS TO S.B. 164  
 March 18, 1997

4-5

1 nurse in this state. Verification of the applicant's licensure status shall be  
 2 required from the original state of licensure.

3 ~~(2)~~ (3) *Refresher course.* Notwithstanding the provisions of subsections (a) and (b), an applicant for a license to practice as a licensed practical nurse who has not been licensed to practice practical nursing for five years preceding application shall be required to successfully complete a refresher course as defined by the board.

8 ~~(3)~~ (4) *Renewal license.* A licensed practical nurse licensed under this act shall be eligible for renewal licenses upon compliance with K.S.A. 65-1117 and amendments thereto.

11 ~~(4)~~ (5) *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. ~~within 36~~ 24 months after graduation shall be required to produce evidence of successful completion of a repeated practical nurse curriculum from an accredited school of practical nursing 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 a subsequent time.

related to deficiencies identified on the failed exam profiles

22 (6) *An application for initial licensure or endorsement will be held awaiting completion of meeting qualifications for a time period specified in rules and regulations.*

25 (d) *Title and abbreviation.* Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title, "licensed practical nurse," and the abbreviation, "L.P.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 licensed practical nurse.

31 (e) *Temporary permit.* The board may issue a temporary permit to practice nursing as a licensed practical nurse for a period not to exceed 90 120 days. ~~The 90-day temporary permit may be renewed for an additional 30 days not to exceed a combined total of 120 days.~~ A temporary permit for 120 days may be issued to an applicant for licensure as a licensed practical nurse who is a graduate of a practical school of nursing in a foreign country after verification of licensure in that foreign country and approval of educational credentials.

39 (f) *Exempt license.* The board may issue an exempt license to any licensee as defined in rules and regulations who makes written application for such license on a form provided by the board and remits a fee as established pursuant to K.S.A. 65-1118 and amendments thereto. The board may issue an exempt license to a person who is not regularly en-

**KANSAS STATE NURSES ASSOCIATION  
AMENDMENTS TO S.B. 164  
March 18, 1997**

6-7

1 professional nurse to an applicant who has been duly licensed as a reg-  
2 istered professional nurse by examination under the laws of another state  
3 or territory if, in the opinion of the board, the applicant meets the qual-  
4 ifications required of a registered professional in this state. Verification  
5 of the applicant's licensure status shall be required from the original state  
6 of licensure.

7 (2) (3) *Refresher course.* Notwithstanding the provisions of subsec-  
8 tions (a) and (b), an applicant for a license to practice as a registered  
9 professional nurse who has not been licensed to practice professional  
10 nursing for five years preceding application shall be required to success-  
11 fully complete a refresher course as defined by the board.

12 (3) (4) *Renewal license.* A licensed professional nurse licensed under  
13 this act shall be eligible for renewal licenses upon compliance with K.S.A.  
14 65-1117 and amendments thereto.

15 (4) (5) *Repeated examination failure.* Persons who are unsuccessful  
16 in passing the licensure examination after four failures shall petition the  
17 board for permission prior to subsequent attempts. The board may re-  
18 quire the applicant to submit and complete a plan of study prior to taking  
19 the licensure examination for the fifth time or any subsequent attempt.  
20 within 36 24 months after graduation shall be required to produce evi-  
21 dence of successful completion of a repeated nursing curriculum from an  
22 accredited school of professional nursing petition the board for per-  
23 mission prior to subsequent attempts. The board may require the  
24 applicant to submit and complete a plan of study prior to taking the  
25 licensure examination a subsequent time.

related to deficiencies identified on the failed exam profiles

26 (6) *An application for initial licensure or endorsement will be held*  
27 *awaiting completion of meeting qualifications for a time period specified*  
28 *in rules and regulations.*

29 (d) *Title and abbreviation.* Any person who holds a license to practice  
30 as a registered professional nurse in this state shall have the right to use  
31 the title, "registered nurse," and the abbreviation, "R.N." No other per-  
32 son shall assume the title or use the abbreviation or any other words,  
33 letters, signs or figures to indicate that the person is a registered profes-  
34 sional nurse.

35 (e) *Temporary permit.* The board may issue a temporary permit to  
36 practice nursing as a registered professional nurse for a period not to  
37 exceed 90 120 days. The 90-day temporary permit may be renewed for  
38 an additional 30 days but not to exceed a combined total of 120 days. A  
39 temporary permit for 120 days may be issued to an applicant for licensure  
40 as a registered professional nurse who is a graduate of a professional  
41 school of nursing in a foreign country after verification of licensure in  
42 that foreign country and approval of educational credentials.

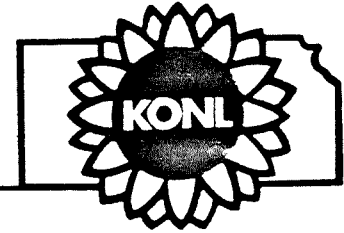
43 (f) *Exempt license.* The board may issue an exempt license to any

**Felony Crimes**  
**Sorted by Severity Level and then by Statute Number**

Reference	Description
21-3401	Murder in the first degree
21-3402(a)	International second degree murder
21-3439	Capital Murder
21-3412(c)(3)*	Domestic Battery; third or subsequent w/in last 5yrs
21-3401	Murder in the first degree
21-3421	Aggravated kidnapping
21-3401	Murder in the first degree: Conspiracy (21-3302)
21-3402(b)	Murder in the second degree (reckless)
21-3401	Murder in the first degree: Solicitation (21-3303)
21-3403	Voluntary manslaughter
21-3420	Kidnapping
21-3427	Aggravated robbery
21-3415(b)(1)	Aggravated battery on LEO-intentional, great bodily harm (see 21-344(a)(1)(A))
21-3440	Injury to a pregnant woman in the commission of a felony
21-3414(a)(1)(A)	Aggravated battery - intentional, great bodily harm
21-3440	Injury to a pregnant woman in commission of K.S.A. 21-342 (aggravated assault), K.S.A. 21-3413(a)(1), battery or KSA 21-3517, sexual battery
21-3404	Involuntary manslaughter
21-3426	Robbery
21-3414(a)(2)(A)	Aggravated battery - reckless, great bodily harm
21-3411	Aggravated assault on law enforcement officer
21-3437	Mistreatment of a dependent adult - physical
21-3410	Aggravated assault
21-3422a(b)	Aggravated interference with parental custody
21-3428	Blackmail
21-3413(a)(2)	Battery against a correctional officer
21-3413(a)(3)	Battery against a youth center officer
21-3413(a)(4)	Battery against a juvenile detention officer
21-3413(a)(5)*	Battery against a city/county correctional officer/employee
21-34(a)(1)(B)	Aggravated battery - intentional, bodily harm
21-3414(a)(1)(C)	Aggravated battery - intentional, physical contact
21-3438(c)	Stalking when the offender has a previous conviction within 7 years for stalking the same victim
21-3414(a)(2)(B)	Aggravated battery - reckless, bodily harm
21-3406	Assisting suicide
21-3419	Criminal threat
21-3438(a)	Stalking in all other cases
21-3422(c)(2)	Interference with parental custody in all other cases

\*This crime was created or the severity level of this crime was amended during the 1996 legislative session.

# KONL



Kansas Organization of Nurse Leaders  
P.O. Box 2308  
Topeka, KS 66601-2308

## Testimony Before the House Health & Human Services Committee

### S.B. 164 and SB 165 Nurse Practice Act Changes

March 18, 1997

Representative Morrison and members of the House Health and Human Services Committee:

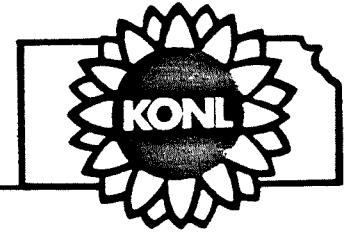
My name is Joan Sevy. I am Vice President of Patient Services at St. Francis Hospital and Medical Center in Topeka, and am currently the President of the Kansas Organization of Nurse Leaders, formerly known as the Kansas Organization of Nurse Executives. We are pleased to be here to support S.B. 164 and S.B. 165, as they are currently amended.

We are supportive of many of the changes originally proposed by the Kansas State Board of Nursing in both bills. We have had concerns in certain areas of S.B. 165 and also proposed the amendment to Section 5. K.S.A. 1996 Supp. 74-1106.

Although the Kansas State Board of Nursing does not support the amended bill before you, it is the result of a great deal of effort on the part of five nursing organizations to achieve consensus on the issues raised by the bills, specifically the Kansas Organization of Nurse Leaders, Kansas State Nurses' Association, Kansas Association of Colleges of Nursing, Kansas Council of Associate Degree Educators and Kansas League for Nursing.

HOUSE HEALTH/HUMAN SERVICES

Attachment 5-1  
3 - 18 - 97



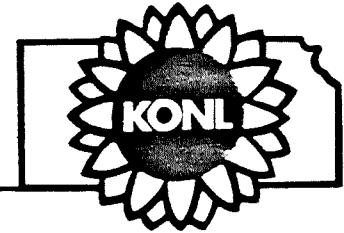
I would like to take this opportunity to share with you the rationale for this amendment KONL proposed in Section 5. of K.S.A. 1996 Supp. 74-1106 and is now included in SB 165 before you today.

We are asking that the member composition of the Kansas State Board of Nursing be changed by eliminating one mental health technician position and adding one registered nurse position. Our reason for making this request is based on the fact the largest number of licensees in the state of Kansas are the nearly 24,000 registered nurses. In order to monitor these licensees to protect the citizens of Kansas, there is need to increase the registered nurse members of the Board to provide this oversight.

In 1996 the representation on the Board of Nursing reflected the following:

Registered Nurse	1 member to 4,734 licensees
Licensed Practical Nurse	1 member to 3,347 licensees
Licensed Mental Health Technician	1 member to 387 licensees

In this changing health care environment, registered professional nurses must remain accountable for the care and management of patients. It is vital that the Board continue to be accountable for licensing and monitoring these practitioners and must have the resources for doing so.



We firmly believe that this is best accomplished by better balance of Board membership. In order to achieve these same goals, the Kansas State Board of Nursing staff has indicated to us that the Board is willing to support the addition of a Registered Nurse to their membership instead of the amendment already before you.

This approach would incur additional costs. KONL believes that resources are not unlimited, and must be re-deployed as needed, where they are needed. We do this as part of our professional work in our roles as nurse leaders. Therefore, we believe it is best to modify the current Board membership by exchanging an LMHT position for another RN position. We proposed this change based purely on the number of licensees, which I have already mentioned. As of 1996, there are a total of 23,687 Registered Nurse licensees and a total of 773 Licensed Mental Health Technicians licensees in the entire state of Kansas. This amendment has been based solely on the premise that the Board resources are best directed to monitoring the largest number of practitioners licensed by it.

If I can answer any questions, I would be pleased to do so.

## REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Health and Human Services** recommends **SB 164**, as amended by Senate Committee of the Whole, be amended on page 2, in line 24, after "study" by inserting "related to deficiencies identified on the failed examination profiles";

On page 4, in line 20, after "study" by inserting "related to deficiencies identified on the failed examination profiles";

On page 6, in line 27, after "that" by inserting "notwithstanding K.S.A. 74-120"; in line 32, by striking "37" and inserting in lieu thereof "34";

On page 13, in line 36, after "that" by inserting "notwithstanding K.S.A. 74-120"; in line 39, by striking "37" and inserting in lieu thereof "34";

On page 15, by striking all in lines 21 through 43;

On page 16, by striking all in lines 1 through 14;

And by renumbering sections accordingly;

Also on page 16, in line 15, by striking ", 65-4208 and 65-4921" and inserting in lieu thereof "and 65-4208";

On page 1, in the title, in line 13, by striking ", 65-4208 and 65-4921" and inserting in lieu thereof "and 65-4208"; and the bill be passed as amended.

\_\_\_\_\_ Chairperson

HOUSE HEALTH/HUMAN SERVICES

Attachment 6  
3 - 18 - 87



700 SW Jackson, Suite 601  
Topeka, Kansas 66603-3731

913/233-8638 \* FAX 913/233-5222

the Voice of Nursing in Kansas

Betty Smith-Campbell, Ph.D., R.N.  
President

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

For More Information Contact  
Terri Roberts J.D., R.N.  
Executive Director  
Kansas State Nurses Association  
(913) 233-8638

March 18, 1997

## S.B. 165 NURSE PRACTICE ACT CHANGES

Representative Morrison and members of the House Health and Human Services Committee, my name is Betty Smith-Campbell Ph.D., R.N. and I am the President of the Kansas State Nurses Association. We are pleased to be here today to testify on S.B. 165 as amended by the Senate Committee, which makes some necessary changes to the Nurse Practice Act.

The professional organization is very supportive of the changes contained in the bill related to continuing nursing education, including:

a new definition that is broader and more inclusive,

clarifying the statutory authority of the Board of Nursing to approve continuing education courses that licensees attend on an individual basis and,

the new language which provides recognition of national accrediting bodies for CNE so that licensees will be able to submit attendance certificates with their license renewals and no additional documentation will be required.

We are also very supportive of the amendments adopted by the Senate Committee in *Section 5 (page 7)*, that provides a *change in the composition of the Board of Nursing by adding a Registered Nurse position* by reducing the number of LMHT's on the Board from 2 to 1. The number of LMHT's has dropped dramatically over the past fifteen years from 1750 in 1981 to 1054 in 1991 down to 700 in 1996. This composition will now provide for a Board of Nursing composed of 11 members: 6 R.N.'s, 2 L.P.N.'s, 2 L.M.H.T.'s, and 2 Public members.

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

HOUSE HEALTH/HUMAN SERVICES

Attachment 7-1  
3 - 18 - 97



**Kansas State Nurses Association**

March 18, 1997

*S.B. 165*

Page 2

With over 35,000 licensees and 38 Schools of Nursing and LMHT programs to review they have very challenging responsibilities. Registered Nurses comprise of 25,000 of the licensees regulated by the Board of Nursing, clearly the largest category of healthcare provider in the state. We believe that the current proposal in S.B. 165 provides a Board more representative of the licensees that are governed by it, and we hope that this change will better facilitate the work of the Board in its regulatory function.

Before I close I would like to say that in the original bill introduced by the Board of Nursing there was a very controversial section related to giving the Board the authority to write rules and regulations specifically for curriculum requirements for nursing education programs at the Associate Degree and Baccalaureate Degree levels (Page 3, line 9-13). The Nursing educator organizations and others were uncertain of the ramifications of these proposed changes and felt that statutory enactment was premature. In the spirit of compromise this section has been deleted to give more time for all parties to discuss this issue and come to consensus.

Thank you.

## REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Health and Human Services** recommends **SB 221**, as amended by Senate Committee of the Whole, be amended on page 3, in line 25, before "Unless" by inserting the following: "A licensing agency in conducting a disciplinary proceeding in which admission of any report, record or testimony relating to any report or record under this section is proposed shall hold the hearing in closed session when any such report, record or testimony is disclosed.";

On page 4, in line 5, by striking all after the period; by striking all in lines 6 through 10 and inserting in lieu thereof the following: "A licensing agency conducting a disciplinary proceeding may not rely solely on peer review committee records, testimony or reports and must prove its findings with independently obtained testimony or records which shall be presented as part of the disciplinary proceeding in open meeting of the licensing agency. Offering such testimony or records in an open public hearing shall not be deemed a waiver of the peer review privilege relating to any peer review committee testimony, records or report.";

On page 5, in line 26, after "agency" by inserting "in"; in line 27, by striking "or" and inserting in lieu thereof a comma; also in line 27, after "record" by inserting "or testimony relating to any report or record"; in line 28, by striking "or" and inserting in lieu thereof a comma; also in line 28, after "record" by inserting "or testimony"; in line 29, after the period, by inserting the following: "Unless otherwise provided by law, a licensing agency conducting a disciplinary proceeding may close only that portion of the hearing in which disclosure of a report or record privileged under this section is proposed. In closing a portion of a hearing as provided by this section, the presiding officer may exclude any person from the hearing location except the licensee, the licensee's attorney, the agency's attorney, the witness, the court reporter and

appropriate staff support for either counsel."; also in line 29, by striking "all" and inserting in lieu thereof "the"; in line 31, after the period, by inserting the following: "Such report or record shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity."; in line 32, by striking "session held as a part" and inserting in lieu thereof "portion"; in line 33, by striking all after "shall" where it appears for the first time; by striking all in lines 34 through 36 and inserting in lieu thereof the following: "at a subsequent civil, criminal or administrative hearing, be required to testify regarding the existence or content of a report or record privileged under this section which was disclosed in a closed portion of a hearing, nor shall such testimony be admitted into evidence in any subsequent civil, criminal or administrative hearing. A licensing agency conducting a disciplinary proceeding may not rely solely on peer review committee records, testimony or reports and must prove its findings with independently obtained testimony or records which shall be presented as part of the disciplinary proceeding in open meeting of the licensing agency. Offering such testimony or records in an open public hearing shall not be deemed a waiver of the peer review privilege relating to any peer review committee testimony, records or report."; and the bill be passed as amended.

\_\_\_\_\_Chairperson