

Approved: March 18, 1997
date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:30 a.m. on March 17, 1997 in Room 123-S of the Capitol.

Members present: Senators Salisbury, Brownlee, O'Donovan, Feleciano, Jordan, Ranson, and Steineger.

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Betty Bomar, Committee Secretary

Conferees appearing before the committee:
Representative Phyllis Gilmore
Gail Bright, Deputy Attorney General

Others attending: See attached list

HB 2176 - Allowing social workers to form professional corporations

Representative Phyllis Gilmore testified in support of **HB 2176** stating the authorization provided in the bill is the highest priority of the Kansas Chapter of the National Association of Social Workers. Rep. Gilmore stated the Association believes **HB 2176** corrects an omission which occurred in the original legislation by excluding number "(15) A specialist in clinical social work" from KSA 17-2710 while including the number and its classification in KSA 17-2707. Rep. Gilmore stated the request for the legislation is primarily a liability issue for clinical social workers. Attachment 1

Senator Brownlee moved, seconded by Senator Donovan that **HB 2176** be recommended favorable for passage and placed on the Consent Calendar. The voice vote was in favor of the motion.

Gail Bright, Deputy Attorney General, informed the Committee the Attorney General's Office had not been able to talk with the authors of **HB 2462**, and until they had that opportunity, they would have no proposed amendments.

Upon motion by Senator Steineger, seconded by Senator Jordan, the Minutes of the March 14, 1997 Meeting were unanimously approved.

The meeting was adjourned at 8:50 a.m.

The next meeting is scheduled for March 18, 1997.

State of Kansas
House of Representatives

HOME ADDRESS: 10365 WEST 159TH STREET
OLATHE, KANSAS 66062
(913) 897-3494
FAX: (913) 897-6676
OFFICE: SUITE 303-N STATEHOUSE
TOPEKA, KANSAS 66612-1504
(913) 296-7500
pgilmore@ink.org



TOPEKA

PHYLLIS GILMORE
Representative, Twenty-Seventh District

COMMITTEE ASSIGNMENTS
CHAIRMAN: JOINT COMMITTEE ON CHILDREN
& FAMILIES
MEMBER: BUSINESS COMMERCE & LABOR
HEALTH & HUMAN SERVICES
JUDICIARY

March 17, 1997

SENATE COMMERCE COMMITTEE

TESTIMONY IN SUPPORT OF HOUSE BILL 2176

Chairman Salisbury and members of the Senate Commerce Committee.

House Bill 2176 was introduced at the request of the Kansas Chapter of the National Association of Social Workers.

This bill, if enacted, would simply allow social workers to form professional corporations. It appears that the omission of the number (15) in Section I of K.S.A. 17-2710 was simply an oversight. I have attached a copy of this statute for your convenience.

This bill passed through the House on the Consent Agenda and was non-controversial.

I appreciate Chairman Salisbury's scheduling of this hearing on House Bill 2176. Thank you and I would be pleased to stand for questions.

*Senate Commerce Committee
March 17, 1997*

Attachment 1-1 thru 1-2

3. 17-2708 held not to authorize general corporation to engage in medical practice nor provide services under supervision of practitioner. *Early Detection Center, Inc. v. Wilson*, 248 K. 869, 877, 811 P.2d 860 (1991).

17-2707. Same; definitions. As used in this act, unless the context clearly indicates that a different meaning is intended, the following words mean:

(a) "Professional corporation," a corporation organized under this act.

(b) "Professional service," the type of personal service rendered by a person duly licensed by this state as a member of any of the following professions, each paragraph constituting one type:

- (1) A certified public accountant;
- (2) An architect;
- (3) An attorney-at-law;
- (4) A chiropractor;
- (5) A dentist;
- (6) An engineer;
- (7) An optometrist;
- (8) An osteopathic physician or surgeon;
- (9) A physician, surgeon or doctor of medicine;

(10) A veterinarian;

(11) A podiatrist;

(12) A pharmacist;

(13) A land surveyor;

(14) A licensed psychologist;

(15) A specialist in clinical social work;

(16) A registered physical therapist;

(17) A landscape architect;

(18) A registered professional nurse.

(c) "Regulating board," the board or state agency which is charged with the licensing and regulation of the practice of the profession which the professional corporation is organized to render.

(d) "Qualified person":

(1) Any natural person licensed to practice the same type of profession which any professional corporation is authorized to practice;

(2) the trustee of a trust which is a qualified trust under subsection (a) of section 401 of the internal revenue code of 1954, as amended, or of a contribution plan which is a qualified employee stock ownership plan under subsection (a) of section 409A of the internal revenue code of 1954, as amended; or

(3) the trustee of a revocable living trust established by a natural person who is licensed to practice the type of profession which any professional corporation is authorized to practice, if the

terms of such trust provide that such natural person is the principal beneficiary and sole trustee of such trust and such trust does not continue to hold title to professional corporation stock following such natural person's death for more than a reasonable period of time necessary to dispose of such stock.

History: L. 1965, ch. 157, § 2; L. 1972, ch. 63, § 1; L. 1976, ch. 109, § 1; L. 1980, ch. 242, § 27; L. 1981, ch. 104, § 1; L. 1986, ch. 299, § 1; L. 1991, ch. 79, § 1; July 1.

Research and Practice Aids:

Corporations = 14(2).

C.J.S. Corporations § 47.

Law Review and Bar Journal References:

"Revocable Trusts," Alson R. Martin and Nancy Schmidt Roush, 51 J.K.B.A. 8, 14 (1982).

Attorney General's Opinions:

State board of technical professions; provision of professional services by nonprofessional corporations; use of word engineer in connection with name of a person. 79-111.

Real estate brokers and salesmen; qualification of licensees. 79-139.

Professional corporations; shares, who may hold. 79-302.

Doctors of chiropractic cannot use the term "chiropractic physician." 87-42.

Limited liability companies; formation; certified public accountants. 92-23.

CASE ANNOTATIONS

1. Cited in holding health care provider act (40-3401 et seq.) did not change rule of respondeat superior. *McGuire v. Sifers*, 235 K. 368, 375, 681 P.2d 1025 (1984).

2. Cited; ambulance services as professional services and exempt from bidding requirements in home rule statute (19-214) examined. *Curtis Ambulance v. Shawnee Cty. Bd. of Cty. Com'rs*, 811 F.2d 1371, 1380 (1987).

3. Cited; voluntary transfer of professional corporation stock to one not "qualified" held null and void under 17-2712. *Central State Bank v. Albright*, 12 K.A.2d 175, 180, 737 P.2d 65 (1987).

4. 17-2708 held not to authorize general corporation to engage in medical practice nor provide services under supervision of practitioner. *Early Detection Center, Inc. v. Wilson*, 248 K. 869, 874, 811 P.2d 860 (1991).

17-2708. Same; general corporation law applicable; exceptions. Except as otherwise provided, the Kansas general corporation code contained in K.S.A. 17-6001 et seq., and amendments thereto, shall apply to a professional corporation organized pursuant to this chapter. Any provisions of the professional corporation law of Kansas shall take precedence over any provision of the Kansas general corporation code which conflicts with it. The provisions of the professional corporation law of Kansas shall take precedence over any law which prohibits a corporation from rendering any type of professional service. Any