

Approved: 3-6-97  
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 21, 1997 in Room 526-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Loretta M. Hoerman, Kansas Academy of Physician Assistants  
Bob McDanel, Administrator for the Board of Emergency Medical Services  
Lawrence T. Buening, JR., Kansas Board of Healing Arts

Others attending: See attached list

**Hearing on SB 243 - Physicians assistants authorized to provide certain emergency medical services**

Loretta M. Hoerman, Kansas Academy of Physician Assistants, testified in support of SB 243 which would amend the statutes to allow physician assistants to give medical direction to front line emergency medical technicians pursuant to proper written protocols as noted in her written testimony. (Attachment 1) During Committee discussion it was pointed out that this bill would not change the scope of practice of a physician assistant, and concern was also expressed regarding the liability issue.

Bob McDanel, Administrator for the Board of Emergency Medical Services, testified in support of SB 243 and brought attention to concerns about the language "authorized" physician assistant, which he felt is redundant and therefore unnecessary because a physician assistant, by statute, may only perform under the direction and supervision of a physician. The other concern related to the distinction between a "registered physician assistant" and an "authorized registered physician assistant" as referenced in the bill. Mr. McDanel requested the Committee strike such language as noted in his written testimony. (See Attachment 2)

The Chair noted that staff would draft a balloon of the bill showing the necessary changes.

**Hearing on SB 246 - Temporary permits for occupational therapists and respiratory therapists**

Lawrence T. Buening, Jr., Kansas Board of Healing Arts, testified in support of SB 246 and noted that the bill, quite simply, does away with the ability of individuals who have applied for registration as an occupational therapists, occupational therapy assistant or respiratory therapists to receive more than one temporary permit. (Attachment 3) During Committee discussion it was pointed out that the effective date of the bill should be changed to "statute book" instead of "Kansas Register."

**Action on SB 164 - Board of nursing authorized to issue exempt licenses and collect fees**

Staff briefed the Committee on the balloon of SB 164 showing proposed amendments by the Kansas State Nurses Association, Board of Nursing, and Kansas Bureau of Investigation. (Attachment 4)

Senator Becker made a motion to amend SB 164 relating to repeated examination failure by changing the number of months after graduation to produce evidence of successful completion of a repeated nursing curriculum from "36" to "24" on page 2, 4 and 11 where noted in the bill, seconded by Senator Lee. The motion carried.

Senator Langworthy made a motion to amend SB 164 relating to the dollar fee amount for application for reinstatement of certificate of an advanced registered nurse practitioner from "50" to "75" on page 5 of the bill, seconded by Senator Lee. The motion carried.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S  
Statehouse, at 10:00 a.m. on February 21, 1997.

Senator Hardenburger made a conceptual motion to amend **SB 164** by reinserting language relating to a misdemeanor back to current law and add language relating to prohibit licensure for "convicted felons of crimes against persons" on page 6 of the bill, seconded by Senator Salmans. The motion carried.

Senator Becker made a motion to amend **SB 164** by deleting "without charge" in reference to criminal justice information from the Kansas Bureau of Investigation on page 7 of the bill, seconded by Senator Lee. The motion carried.

Senator Langworthy made a motion to amend **SB 164** relating to "Application for reinstatement" fees from "36" to "70" on page 12 of the bill, seconded by Senator Becker. The motion carried.

Senator Bleeker made a motion to amend **SB 164** in K.S.A. 65-4209 relating to denial, revocation or suspension of a license by inserting language "or a violation of a corresponding municipal ordinance unless the applicant or licensee establishes sufficient rehabilitation", seconded by Senator Langworthy. The motion carried.

Senator Lee made a motion the Committee recommend **SB 164 as amended** favorably for passage, seconded by Senator Langworthy. The motion carried.

### **Action on SB 165 - Board of nursing licenses continuing education and membership on the board**

Staff briefed the Committee on the balloon of **SB 165** showing proposed amendments from the Kansas State Board of Nursing and the Kansas State Nurses Association. (Attachment 5)

Senator Hardenburger made a motion to amend **SB 165** by inserting language in the bill that would change the composition of the board by deleting a licensed mental health technician and adding another Registered Nurse, as noted on page 7 of the bill, seconded by Senator Becker. The motion carried.

Senator Lee made a motion to amend **SB 165** by striking language on page 3, lines 8 to 12 of the bill that relates to an accredited school for professional nurses, seconded by Senator Hardenburger. The motion carried.

Senator Lee made a motion to amend **SB 165** by striking language on page 8, lines 2 to 7 of the bill, and by renumbering paragraphs accordingly, seconded by Senator Hardenburger. The motion carried.

Senator Hardenburger made a motion to amend **SB 165** relating to language being consistent in reference to membership on the Board that would add one Registered Nurse member at-large as shown on page 9 of the balloon of the bill, seconded by Senator Lee. The motion carried.

Senator Becker made a motion to amend **SB 165** by inserting language on page 9 of the bill that would specify the licensed mental health technician must be in active practice in Kansas, seconded by Senator Lee. The motion carried.

Senator Hardenburger made a motion that the Committee recommend **SB 165 as amended** favorably for passage, seconded by Senator Becker. The motion carried.

### **Adjournment**

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

The next meeting is scheduled for February 24, 1997.

# SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: 2-2-97

NAME	REPRESENTING
LARRY BUENING	BD OF HEALING ARTS
Carolyn Milledy	KSDA
Howie Burris	Baker School of Nursing
Amanda Crawford	Baker School of Nursing
Ruth Bogolski	Baker School of Nursing
Amy Campbell	R. Rice Law Office
Pat Johnson	Bd of Nsg.
Brook Newton Bee	Board of Nursing
Anealka Martin	Board of Nursing
Sarah Tidwell	Board of Nursing
Doretha Zick	Board of Nursing
Carol Maynard	Board of Nursing
Doug Smith	KAPA
LORETTA HOERMAN	KAPA
Indee Dreyer Paul	*KS Bd of Nursing
Lu Ann Nauman	KSNA
Ken Baker	KHA
Mary Hanson	KMS

# TESTIMONY

**Senate Public Health and Welfare Committee  
Senate Bill No. 243  
February 19, 1997**

***To the Honorable Members of the Senate Committee on Public Health and Welfare***

Dear Madam Chairperson and Members of the Committee:

My name is Loretta M. Hoerman and I am a Registered Physician Assistant here in Topeka, Kansas. I appear before you today as a spokesperson for the Kansas Academy of Physician Assistants ("KAPA"), of which I am a member.

In Kansas, there are approximately 280 physician assistants providing needed medical services. More than 50% of these physician assistants serve communities of less than 20,000 residents. In many cases the PA is the only source of primary health care available on a daily basis with the supervising physician attending to patients at a different location.

While working in a dependent role with their responsible physician, a PA can perform a wide range of medical duties, from basic health care to high-technology specialities. All these duties are performed under the supervision of a responsible physician, or physician approved protocol.

Some of these assignments may require a physician assistant to direct emergency medical service personnel on the care and treatment of a patient. Senate Bill No. 243 amends the statutes in Section 61 of K.S.A. Chapter 65, and will allow physician assistants to fulfill an important role in emergency medicine by giving medical direction to front line emergency medical technicians, again pursuant to the proper written protocols.

The Kansas Academy of Physician Assistants urges your Committee to take favorable action on Senate Bill No. 243.

Thank you for your courtesy and consideration.

**Kansas Academy of Physician Assistants**

Loretta M. Hoerman, RPAC

Senate Public Health and Welfare  
Date: 2-21-97  
Attachment No. /



STATE OF KANSAS  
BOARD OF EMERGENCY MEDICAL SERVICES

109 S.W. 6TH STREET, TOPEKA, KS 66603-3826  
OFFICE (913) 296-7296 FAX (913) 296-6212 TDD (913) 296-6237

Bob McDanel  
Administrator

Bill Graves  
Governor

DATE: February 19, 1997  
TO: Senate Public Health and Welfare  
FROM: Bob McDanel *BM*  
SUBJECT: Testimony in support of SB 243

The Board of Emergency Medical Services is the state agency which regulates out-of-hospital emergency medical services. Agency responsibilities include the permitting of ambulance services, the licensing of vehicles, and the training, examination and certification of ambulance attendants and instructors. The board also provides an emergency radio communications system in 51 counties and supports four regional EMS councils.

The board supports SB 243 and requests that the committee report it favorably. Particularly in rural areas, physician assistants are primary health care providers, and could play a vital role in authorizing the administration of advanced life support by ambulance attendants.

The board's legal counsel, Mary Feighny, has a concern about the language "authorized" physician assistant, which she has discussed with the Revisor's Office. A letter outlining this concern was mailed earlier to Sen. Praeger and is attached to this memo.

RM/st  
att.

Senate Public Health and Welfare  
Date: *2-21-97*  
Attachment No. *2*



STATE OF KANSAS  
BOARD OF EMERGENCY MEDICAL SERVICES

109 S.W. 6TH STREET, TOPEKA, KS 66603-3826  
OFFICE (913) 296-7296 FAX (913) 296-6212 TDD (913) 296-6237

Bob McDanel  
Administrator

Bill Graves  
Governor

February 17, 1997

Honorable Sandy Praeger  
Chairperson, Senate Committee on Public Health and Welfare  
State Capitol, Room 128-S  
Topeka, Kansas 66612

Re: Senate Bill 243

Dear Senator Praeger:

As Administrator for the Board of Emergency Medical Services, the Board has directed me to indicate the Board's support for the amendments to the EMS statutes that authorize a physician assistant acting under the direction of a physician to order attendants to perform certain activities. However, we are concerned that the use of the term "authorized physician assistant" in lines 11 and 34 of page 4 and line 12 on page 5 is redundant and, therefore, unnecessary because a physician assistant, by statute, may only perform under the direction and supervision of a physician. (See K.S.A. 65-2896e and 65-2897a.)

The other amendments in the bill refer to a "registered physician assistant" which is appropriate. If the word "authorized" remains in the bill, we are concerned that it may create some legislative ambiguity in terms of the distinction between a "registered physician assistant" and an "authorized registered physician assistant."

We would appreciate the committee's consideration in removing the word "authorized" at lines 11 and 34 on page 4 and line 12 on page 5 of the bill.

Sincerely,

Bob McDanel  
Administrator

cc: Norman Furse, Revisor of Statutes  
Doug Smith, Pinegar Smith Company

# KANSAS BOARD OF HEALING ARTS

BILL GRAVES  
Governor

LAWRENCE T. BUENING, JR.  
Executive Director



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

## MEMORANDUM

TO: Senate Committee on Public Health and Welfare

FROM: Lawrence T. Buening, Jr.  
Executive Director

DATE: February 20, 1997

RE: **SENATE BILL NO. 246**

Senator Praeger and members of the Committee, thank you very much for making time on your very busy schedule for hearing Senate Bill No. 246. This bill was requested for introduction by the State Board of Healing Arts and I am here today, on behalf of the Board, to testify in support of its favorable consideration by this Committee.

This bill, quite simply, does away with the ability of individuals who have applied for registration as an occupational therapist, occupational therapy assistant or respiratory therapist to receive more than one temporary permit. Currently, individuals who have failed to pass the required examination for registration in any one of these professions after one year may apply for second, third and even fourth temporary permits. Action on requests for more than a single temporary permit require approval by a majority of the Board. K.S.A. 65-5416 (occupational

#### 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  
HAROLD J. SAUDER, D.P.M., INDEPENDENCE  
EMILY TAYLOR, LAWRENCE  
ROBERT WARREN, M.D., HANOVER

Senate Public Health and Welfare  
Date: 2-21-97  
Attachment No. 3

therapists and occupational therapy assistants) and K.S.A. 65-5516 (respiratory therapists) require that any such requests be conducted in accordance with the Kansas Administrative Procedure Act and reviewable in accordance with the act for judicial review and civil enforcement of agency actions. Attached to this testimony are selected pages from several of the agendas of most recent Board meetings. As you can discern, a substantial amount of space, if not actual time, is devoted to rendering decisions on requests for second and third temporary permits.

The Board, the Occupational Therapy and Respiratory Therapy Councils, and the associations representing each of these professions are firmly of the opinion that if an individual cannot pass an examination to be fully registered within a year of otherwise completing the requirements for registration, that individual should no longer have the right to hold themselves out as being a respiratory therapist, occupational therapist or occupational therapy assistant in the State of Kansas.

Thank you for being willing to hear this bill and I hope you would consider it favorably for passage. I would be happy to respond to any questions.



**KANSAS STATE BOARD OF HEALING ARTS  
BOARD MEETING AGENDA**

**JUNE 22, 1996**

235 S. Topeka Blvd.  
Topeka, Kansas 66603-3068  
(913) 296-3680

- I. Call to Order - Roll Call - 8:30 a.m.
- II. Approval of Agenda
- III. Approval of Minutes - Regular Meeting April 27, 1996
- IV. Staff Reports

Executive Director:

General Counsel:

Disciplinary Counsel:

Assistant General Counsel:

Associate Counsel:

Licensing Administrator:

V. Administrative Proceedings

- 10:00 a.m. PEES, Jeanne, P.T. - Conference Hearing on Termination of Stipulation
- 10:15 SHENDE, Harsh, (O.T.) - Conference Hearing on Second Temporary Registration
- BUSAKA, Musalia J., (O.T.) - Conference Hearing on Second Temporary Registration
- SHARMA, Manisha, (O.T.) - Conference Hearing on Second Temporary Registration
- MAJUMDER, Mousumi, (O.T.) - Conference Hearing on Second Temporary Registration
- PAUL, Achintya K., (R.T.) - Conference Hearing on Second Temporary Registration
- HAYWOOD, Rick, (RT) - Conference Hearing on Application for Registration

10:45

SOLOMON, George, MD - Reconsideration of Final Hearing

RAJCA, Jo Ann Loar, RT - Conference Hearing on Application for Registration

MOHONRAJ, Monoh, OT - Conference Hearing on Third Temporary Registration

BUSAKA, Musalia, OT - Conference Hearing on Third Temporary Registration

VENEZIA, Alicia L., PT - Conference Hearing on Third Temporary Permit

RIOS, Despina V., PT - Conference Hearing on Third Temporary Permit

ANSINGKAR, Kalyani, OT - Conference Hearing on Second Temporary Registration

DHAS, Milton, OT - Conference Hearing on Second Temporary Registration

ROY, Suparna, OT - Conference Hearing on Second Temporary Registration

MAHECHA, Martha, OT - Conference Hearing on Second Temporary Registration

NGANGA, John, OT - Conference Hearing on Second Temporary Registration

SUBANDH, Prita, OT - Conference Hearing on Second Temporary Registration

DAS, Chinmay, OT - Conference Hearing on Second Temporary Registration

JARSO, Solomon, OT - Conference Hearing on Second Temporary Registration

GONZALES, Norma, RT - Conference Hearing on Second Temporary Registration

11:30

ELLIAS, Mazin Abidul Masih, MD - Conference Hearing on Application for Licensure

HALLABA, Moheb, MD - Conference Hearing on Petition for Revocation, Suspension or Limitation of License

**KANSAS STATE BOARD OF HEALING ARTS  
BOARD MEETING AGENDA**

**DECEMBER 6-7, 1996**

235 S. Topeka Blvd.  
Topeka, Kansas 66603-3068  
(913) 296-3680

Friday, December 6, 1996

- I. Call to Order - Roll Call - 8:30 a.m.
- II. Approval of Agenda
- III. Approval of Minutes - Regular Meeting October 19, 1996
- IV. Adoption of Respiratory Therapy Rules and Regulations
- V. Staff Reports
  - Executive Director:
  - General Counsel:
  - Licensing Administrator:
- VI. Administrative Proceedings
  - 9:00 a.m. AGCAOILI, Lucrecia (OT) - Conference Hearing on Second Temporary Permit
  - SINGH, Kalpana (OT) - Conference Hearing on Second Temporary Permit
  - REYES, Noel (OT) - Conference Hearing on Second Temporary Permit
  - BASANTE, Janne (OT) - Conference Hearing on Second Temporary Permit

VI. Administrative Proceedings (Continued)

9:00 a.m. AHUJA, Sangeeta (OT) - Conference  
Hearing on Second Temporary Permit

PRADEEP, Pradeep (OT) - Conference  
Hearing on Second Temporary Permit

DELA PENA, Lorena Leah Appa (OT) -  
Conference Hearing on Second Temporary  
Permit

CLARK, Timmy (PTA) - Conference Hearing  
on Third Temporary Permit

9:15 OEHLECKER, Donald G., MD - Conference Hearing  
on Disciplinary Petition

9:30 REESE, Jack, MD - Conference Hearing  
on Disciplinary Petition

10:00 PEARSON, Mark, MD - Conference Hearing on  
Disciplinary Petition

HART, Dillis, MD - Conference Hearing  
on Disciplinary Petition

10:15 WILLIAMS, Fenton, MD - Conference Hearing on Motion  
for Assessment of Costs

MENDIOLA, Ambrosio, MD - Conference  
Hearing on Motion for Assessment of Costs

10:45 ARKELL, William J., DO - Conference  
Hearing on Termination of Stipulation

11:00 HILST, Wilbur, MD - Reconsideration of  
Final Order

1:00 p.m. JAMIESON, Austin, DO - Review of Initial Order

VII. Offers of Settlement Agreements  
VIII. Other Business  
IX. Adjournment

## SENATE BILL No. 164

By Committee on Public Health and Welfare

1-31

9 AN ACT concerning the board of nursing; licensees of the board; exempt  
10 licenses; fees; amending K.S.A. 65-1131, 65-4208 and 65-4921 and  
11 K.S.A. 1996 Supp. 65-1115, 65-1116, 65-1118, 65-1120, 65-1124, 65-  
12 1152 and 65-4203 and repealing the existing sections.

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

15 Section 1. K.S.A. 1996 Supp. 65-1115 is hereby amended to read as  
16 follows: 65-1115. (a) *Qualifications of applicants.* An applicant for a li-  
17 cense to practice as a registered professional nurse shall ~~file with the~~  
18 ~~board written application for a license and submit satisfactory proof that~~  
19 ~~the applicant:~~

20 (1) ~~Has~~ *Have* graduated from a high school accredited by the appro-  
21 priate legal accrediting agency or has obtained the equivalent of a high  
22 school education, as determined by the state department of education;

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

27 (3) ~~has have~~ obtained other qualifications not in conflict with this act  
28 as the board may prescribe by rule and regulation; *and*

29 (4) *file with the board written application for a license.*

30 (b) *Applicant deficient in qualifications.* If the board finds in evalu-  
31 ating any applicant that such applicant is deficient in qualification or in  
32 the quality of such applicant's educational experience, the board may  
33 require such applicant to fulfill such remedial or other requirements as  
34 the board may prescribe.

35 (c) *License.* (1) An applicant shall pass an examination as the board  
36 may prescribe. Each examination may be supplemented by an oral or  
37 practical examination. Upon successfully passing such examinations the  
38 board shall issue to the applicant a license to practice nursing as a reg-  
39 istered professional nurse.

40 (2) *The board may issue a license to practice nursing as a registered*  
41 *professional nurse to an applicant who has been duly licensed as a reg-*  
42 *istered professional nurse by examination under the laws of another state*  
43 *or territory if, in the opinion of the board, the applicant meets the qual-*

ifications required of a registered professional in this state. Verification of the applicant's licensure status shall be required from the original state of licensure.

(2) (3) *Refresher course.* Notwithstanding the provisions of subsections (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) (4) *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) (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 months after graduation shall be required to produce evidence of successful completion of a repeated nursing curriculum from an accredited school of professional nursing.

(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.*

(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 90 120 days. The 90-day temporary permit may be renewed for an additional 30 days but 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 registered professional nurse who is a graduate of a professional school of nursing in a foreign country after verification of licensure in that foreign country and approval of educational credentials.

(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 engaged in the practice of professional nursing in Kansas but is a charitable health care provider as defined by K.S.A. 75-6102 and amendments

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thereto. Each exempt licensee shall be subject to all provisions of the nurse practice act, except as otherwise provided in this subsection (f). Each exempt license may be renewed biennially subject to the provisions of this section. The holder of the exempt license shall not be required to submit evidence of satisfactory completion of a program of continuing nursing education for renewal. To convert an exempt license to an active license, the exempt licensee shall meet all the requirements of subsection (c) or K.S.A. 65-1117 and amendments thereto. The board shall have authority to write rules and regulations to carry out the provisions of this section.

Sec. 2. K.S.A. 1996 Supp. 65-1116 is hereby amended to read as follows: 65-1116. (a) *Qualification.* An applicant for a license to practice as a licensed practical nurse shall ~~file with the board a written application for a license and submit to the board satisfactory proof that the applicant:~~

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

(3) ~~has~~ have obtained other qualifications not in conflict with this act as the board may prescribe by rule and regulation; ~~and~~

(4) ~~file with the board a written application for a license.~~

(b) 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) *Examination.* The 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 as a licensed practical nurse.

(2) *The board may issue a license to practice nursing as a practical nurse to an applicant who has been duly licensed as a practical nurse by examination under the laws of another state or territory if, in the opinion of the board, the applicant meets the qualifications required of a practical nurse in this state. Verification of the applicant's licensure status shall be required from the original state of licensure.*

~~(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

4-4

refresher course as defined by the board.

2 (3) (4) *Renewal license.* A licensed practical nurse licensed under this  
3 act shall be eligible for renewal licenses upon compliance with K.S.A. 65-  
4 1117 and amendments thereto.

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5 (4) (5) *Repeated examination failure.* Persons who are unsuccessful  
6 in passing the licensure examination after four failures shall petition the  
7 board for permission prior to subsequent attempts. The board may re-  
8 quire the applicant to submit and complete a plan of study prior to taking  
9 the licensure examination for the fifth time or any subsequent attempt.  
10 within ~~36~~ months after graduation shall be required to produce evidence  
11 of successful completion of a repeated practical nurse curriculum from an  
12 accredited school of practical nursing.

[24

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

16 (d) *Title and abbreviation.* Any person who holds a license to practice  
17 as a licensed practical nurse in this state shall have the right to use the  
18 title, "licensed practical nurse," and the abbreviation, "L.P.N." No other  
19 person shall assume the title or use the abbreviation or any other words,  
20 letters, signs or figures to indicate that the person is a licensed practical  
21 nurse.

22 (e) *Temporary permit.* The board may issue a temporary permit to  
23 practice nursing as a licensed practical nurse for a period not to exceed  
24 90 120 days. The 90-day temporary permit may be renewed for an ad-  
25 ditional 30 days not to exceed a combined total of 120 days. A temporary  
26 permit for 120 days may be issued to an applicant for licensure as a  
27 licensed practical nurse who is a graduate of a practical school of nursing  
28 in a foreign country after verification of licensure in that foreign country  
29 and approval of educational credentials.

30 (f) *Exempt license.* The board may issue an exempt license to any  
31 licensee as defined in rules and regulations who makes written application  
32 for such license on a form provided by the board and remits a fee as  
33 established pursuant to K.S.A. 65-1118 and amendments thereto. The  
34 board may issue an exempt license to a person who is not regularly en-  
35 gaged in the practice of practical nursing in Kansas but is a charitable  
36 health care provider as defined by K.S.A. 75-6102 and amendments  
37 thereto. Each exempt licensee shall be subject to all provisions of the nurse  
38 practice act, except as otherwise provided in this subsection (f). Each  
39 exempt license may be renewed biennially subject to the provisions of this  
40 section. The holder of the exempt license shall not be required to submit  
41 evidence of satisfactory completion of a program of continuing nursing  
42 education for renewal. To convert an exempt license to an active license,  
43 the exempt licensee shall meet all the requirements of subsection (c) or

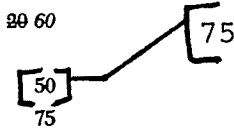


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K.S.A. 65-1117 and amendments thereto. The board shall have authority to write rules and regulations to carry out the provisions of this section.

Sec. 3. K.S.A. 1996 Supp. 65-1118 is hereby amended to read as follows: 65-1118. (a) The board shall collect in advance fees provided for in this act as fixed by the board, but not exceeding:

6	Application for license—professional nurse .....	\$75
7	Application for license—practical nurse .....	50
8	Application for biennial renewal of license—professional nurse and practical nurse .....	60
9	Application for reinstatement of license .....	70
10	Application for reinstatement of licenses with temporary permit .....	100
11	Certified copy of license .....	25
12	Duplicate of license .....	25
13	Inactive license .....	20
14	Application for certificate of qualification—advanced registered nurse practitioner .....	50
15	Application for certificate of qualification with temporary permit—advanced registered nurse practitioner .....	100
16	Application for renewal of certificate of qualification—advanced registered nurse practitioner .....	20 60
17	Application for reinstatement of certificate of qualification—advanced registered nurse practitioner .....	50
18	Application for authorization—registered nurse anesthetist .....	75
19	Application for authorization with temporary authorization—registered nurse anesthetist .....	110
20	Application for biennial renewal of authorization—registered nurse anesthetist .....	60
21	Application for reinstatement of authorization—registered nurse anesthetist .....	75
22	Application for reinstatement of authorization with temporary authorization—registered nurse anesthetist .....	100
23	Verification of license to another state .....	30
24	Application for exempt license—professional and practical nurse .....	50
25	Application for biennial renewal of exempt license—professional and practical nurse .....	50
26	Application for exempt certification—advanced registered nurse practitioner .....	50
27	Application for biennial renewal of exempt certificate—advanced registered nurse practitioner .....	50



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

Sec. 4. K.S.A. 1996 Supp. 65-1120 is hereby amended to read as

follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may deny, revoke, limit or suspend any license, certificate of qualification or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced registered nurse practitioner or as a registered nurse anesthetist that is issued by the board or applied for under this act or may publicly or privately censure a licensee or holder of a certificate of qualification or authorization, if the applicant, licensee or holder of a certificate of qualification or authorization is found after hearing:

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

(2) to have been guilty of a felony or ~~to have been guilty of a misdemeanor involving an illegal drug offense, if the board determines, after investigation, that such person has not been sufficiently rehabilitated or a violation of corresponding municipal ordinance unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust~~

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

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

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

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

(7) to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act, including K.S.A. 65-1114 and 65-1122 and amendments thereto; or

(8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph (8).

(b) *Proceedings.* Upon filing of a sworn complaint with the board charging a person with having been guilty of any of the unlawful practices specified in subsection (a), two or more members of the board shall in-

#### KSNA

except that no license, certificate of qualification or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced registered nurse practitioner or registered nurse anesthetist shall be granted to a person with a felony conviction for a crime against persons (art. 37, ch. 21)

See attached section for a similar statute in LMHT law.

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2 investigate the charges, or the board may designate and authorize an em-  
3 ployee or employees of the board to conduct an investigation. After in-  
4 vestigation, the board may institute charges. If an investigation, in the  
5 opinion of the board, reveals reasonable grounds for believing the appli-  
6 cant or licensee is guilty of the charges, the board shall fix a time and  
7 place for proceedings, which shall be conducted in accordance with the  
provisions of the Kansas administrative procedure act.

8 (c) *Witnesses.* No person shall be excused from testifying in any pro-  
9 ceedings before the board under this act or in any civil proceedings under  
10 this act before a court of competent jurisdiction on the ground that such  
11 testimony may incriminate the person testifying, but such testimony shall  
12 not be used against the person for the prosecution of any crime under  
13 the laws of this state except the crime of perjury as defined in K.S.A. 21-  
14 3805 and amendments thereto.

15 (d) *Costs.* If final agency action of the board in a proceeding under  
16 this section is adverse to the applicant or licensee, the costs of the board's  
17 proceedings shall be charged to the applicant or licensee as in ordinary  
18 civil actions in the district court, but if the board is the unsuccessful party,  
19 the costs shall be paid by the board. Witness fees and costs may be taxed  
20 by the board according to the statutes relating to procedure in the district  
21 court. All costs accrued by the board, when it is the successful party, and  
22 which the attorney general certifies cannot be collected from the appli-  
23 cant or licensee shall be paid from the board of nursing fee fund. All  
24 moneys collected following board proceedings shall be credited in full to  
25 the board of nursing fee fund.

26 (e) *Professional incompetency defined.* As used in this section, "pro-  
27 fessional incompetency" means:

28 (1) One or more instances involving failure to adhere to the appli-  
29 cable standard of care to a degree which constitutes gross negligence, as  
30 determined by the board;

31 (2) repeated instances involving failure to adhere to the applicable  
32 standard of care to a degree which constitutes ordinary negligence, as  
33 determined by the board; or

34 (3) a pattern of practice or other behavior which demonstrates a man-  
35 ifest incapacity or incompetence to practice nursing.

36 (f) *Criminal justice information.* The board upon request shall receive  
37 from the Kansas bureau of investigation, ~~without charge,~~ such criminal  
38 history record information relating to *arrests and* criminal convictions as  
39 necessary for the purpose of determining initial and continuing qualifi-  
40 cations of licensees of and applicants for licensure by the board.

41 Sec. 5. K.S.A. 1996 Supp. 65-1124 is hereby amended to read as  
follows: 65-1124. No provisions of this law shall be construed as prohib-  
iting:

4-7  
KBI request delete "without charge" in line 37

KSNA and KONL comment re Arrest records

4-8

- 1 (a) Gratuitous nursing by friends or members of the family;
- 2 (b) the incidental care of the sick by domestic servants or persons
- 3 primarily employed as housekeepers;
- 4 (c) caring for the sick in accordance with tenets and practices of any
- 5 church or religious denomination which teaches reliance upon spiritual
- 6 means through prayer for healing;
- 7 (d) nursing assistance in the case of an emergency;
- 8 (e) the practice of nursing by students enrolled in accredited schools
- 9 of professional or practical nursing or programs of advanced registered
- 10 professional nursing approved by the board nor nursing by graduates of
- 11 such schools or courses pending the results of the first licensure exami-
- 12 nation scheduled following such graduation but in no case to exceed 90
- 13 days, whichever comes first;
- 14 (f) the practice of nursing in this state by legally qualified nurses of
- 15 any of the other states as long as the engagement of any such nurse
- 16 requires the nurse to accompany and care for a patient temporarily re-
- 17 siding in this state during the period of one such engagement not to
- 18 exceed six months in length, and as long as such nurses do not represent
- 19 or hold themselves out as nurses licensed to practice in this state;
- 20 (g) the practice by any nurse who is employed by the United States
- 21 government or any bureau, division or agency thereof, while in the dis-
- 22 charge of official duties;
- 23 (h) auxiliary patient care services performed in medical care facilities,
- 24 adult care homes or elsewhere by persons under the direction of a person
- 25 licensed to practice medicine and surgery or a person licensed to practice
- 26 dentistry or the supervision of a registered professional nurse or a licensed
- 27 practical nurse;
- 28 (i) the administration of medications to residents of adult care homes
- 29 or to patients in hospital-based long-term care units, including state op-
- 30 erated institutions for the mentally retarded, by an unlicensed person who
- 31 has been certified as having satisfactorily completed a training program
- 32 in medication administration approved by the secretary of health and
- 33 environment and has completed the program on continuing education
- 34 adopted by the secretary, or by an unlicensed person while engaged in
- 35 and as a part of such training program in medication administration;
- 36 (j) the practice of mental health technology by licensed mental health
- 37 technicians as authorized under the mental health technicians' licensure
- 38 act;
- 39 (k) performance in the school setting of ~~selected~~ nursing procedures;
- 40 ~~as specified by~~ *when delegated by a licensed professional nurse in accor-*
- 41 *dance with the rules and regulations of the board; necessary for students;*
- 42 (l) performance of attendant care services directed by or on behalf
- 43 of an individual in need of in-home care as the term "attendant care"

services" and "individual in need of in-home care" are defined under K.S.A. 65-6201 and amendments thereto;

(m) performance of a nursing procedure by a person when that procedure is delegated by a licensed nurse, within the reasonable exercise of independent nursing judgment and is performed with reasonable skill and safety by that person under the supervision of a registered professional nurse or a licensed practical nurse; or

(n) the practice of nursing by an applicant for Kansas nurse licensure in the supervised clinical portion of a refresher course.

Sec. 6. K.S.A. 65-1131 is hereby amended to read as follows: 65-1131. (a) (1) *Certification.* Upon application to the board by any professional nurse in this state and upon satisfaction of the standards and requirements established by the board under K.S.A. 65-1130 and amendments thereto, the board may issue a certificate of qualification to such applicant authorizing the applicant to perform the duties of an advanced registered nurse practitioner as defined by the board under K.S.A. 65-1130 and amendments thereto.

(2) *The board may issue a certificate to practice nursing as an advanced registered nurse practitioner to an applicant who has been duly licensed or certified as an advanced registered nurse practitioner under the laws of another state or territory if, in the opinion of the board, the applicant meets the qualifications required of an advanced registered nurse practitioner in this state. Verification of the applicant's licensure or certification status shall be required from the original state of licensure or certification.*

(3) An application to the board for a certificate of qualification, for a certificate of qualification with temporary permit, for renewal of a certificate of qualification and for reinstatement of a certificate of qualification shall be upon such form and contain such information as the board may require and shall be accompanied by a fee, to be established by rules and regulations adopted by the board, to assist in defraying the expenses in connection with the issuance of certificates of qualification as advanced registered nurse practitioners, in an amount fixed by the board under K.S.A. 65-1118 and amendments thereto.

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

(5) The executive administrator of the board shall remit all moneys received pursuant to this section to the state treasurer as provided by K.S.A. 74-1108 and amendments thereto.

(b) The board may grant a one-time temporary permit to practice as an advanced registered nurse practitioner for a period of not more than 180 days pending completion of the application for a certificate of qual-

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4-10

1 ification.

2 (c) *Exempt certificate.* The board may issue an exempt certificate to  
 3 any advanced registered nurse practitioner as defined in rules and reg-  
 4 ulations who makes written application for such certificate on a form  
 5 provided by the board and remits a fee as established pursuant to K.S.A.  
 6 65-1118 and amendments thereto. The board may issue an exempt certif-  
 7 icate to a person who is not regularly engaged in advanced registered  
 8 nurse practice in Kansas but is a charitable health care provider as defined  
 9 by K.S.A. 75-6102 and amendments thereto. Each exempt advanced reg-  
 10 istered nurse practitioner shall be subject to all provisions of the nurse  
 11 practice act. Each exempt license may be renewed biennially subject to  
 12 the provisions of this section. To convert an exempt certificate to an active  
 13 certificate, the exempt advanced registered nurse practitioner shall meet  
 14 all the requirements of subsection (a) or K.S.A. 65-1132 and amendments  
 15 thereto. The board shall have authority to write rules and regulations to  
 16 carry out the provisions of this section.

17 Sec. 7. K.S.A. 1996 Supp. 65-1152 is hereby amended to read as  
 18 follows: 65-1152. (a) In order to obtain authorization from the board of  
 19 nursing to practice as a registered nurse anesthetist an individual shall  
 20 meet the following requirements:

- 21 (1) Be licensed to practice professional nursing under the Kansas  
 22 nurse practice act;
- 23 (2) has successfully completed a course of study in nurse anesthesia  
 24 in a school of nurse anesthesia accredited or approved by the board;
- 25 (3) has successfully completed an examination approved by the board  
 26 or has been certified by a national organization whose certifying standards  
 27 are approved by the board as equal to or greater than the corresponding  
 28 standards established under this act for obtaining authorization to practice  
 29 as a registered nurse anesthetist; and
- 30 (4) be required to successfully complete a refresher course as defined  
 31 in rules and regulations of the board if the individual has not been in  
 32 active anesthesia practice for five years preceding the application.

33 (b) Accreditation of schools of nurse anesthesia shall be based on  
 34 accreditation standards specified in K.S.A. ~~65-1119~~ 65-1133 and amend-  
 35 ments thereto.

36 (c) Schools of nurse anesthesia accredited by the board under this  
 37 section shall offer, a masters level degree program in nurse anesthesia.

38 (d) For the purposes of determining whether an individual meets the  
 39 requirements of item (2) of subsection (a), the board by rules and regu-  
 40 lations shall establish criteria for determining whether a particular school  
 of nurse anesthesia maintains standards which are at least equal to schools  
 of nurse anesthesia which are accredited by the board.

41 Sec. 8. K.S.A. 1996 Supp. 65-1153 is hereby amended to read as

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follows: 65-4203. (a) ~~Except as is hereinafter provided,~~ *Qualification.* An applicant for a license to practice as a mental health technician shall file with the board a written application for such license, on forms prescribed by the board, and shall submit satisfactory evidence that the applicant:

(1) ~~Has been satisfactorily rehabilitated if the applicant has ever been convicted of a felony;~~

(2) ~~possesses a high school education or its recognized equivalent;~~  
and

(1) *Have 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) ~~has~~ (2) *have* satisfactorily completed an approved course of mental health technology; and

(3) *file with the board a written application for a license.*

(b) A license to perform as a mental health technician may only be issued by the board to an applicant: (1) meeting the qualifications set forth in subsection (a) and who has successfully passed a written examination in mental health technology as prescribed and conducted by the board; or

(2) ~~who has been duly licensed by examination under the laws of another state, territory or foreign country if, in the opinion of the board, the requirements for licensure in such other jurisdiction equal or exceed the qualifications required to practice as a mental health technician in this state.~~

KSNA

(c) 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 months after graduation shall be required to produce evidence of successful completion of a repeated mental health technology curriculum from an accredited school of mental health technology.~~

[ 24

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

(e) ~~(e)~~ (e) The board may issue a one-time temporary permit to practice as a mental health technician for a period not to exceed 120 days when a reinstatement application has been made.

(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. 65-4208 and amendments thereto. The board may issue an exempt license to a person who is not regularly en-*

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1 gaged in mental health technician practice in Kansas but is a charitable  
 2 health care provider as defined by K.S.A. 75-6102 and amendments  
 3 thereto. Each exempt licensee shall be subject to all provisions of the men-  
 4 tal health technician act, except as otherwise provided in this subsection  
 5 (e). Each exempt license may be renewed biennially subject to the provi-  
 6 sions of this section. The holder of the exempt license shall not be required  
 7 to submit evidence of satisfactory completion of a program of continuing  
 8 education for renewal. To convert an exempt license to an active license,  
 9 the exempt licensee shall meet all the requirements of subsection (b) or  
 10 K.S.A. 65-4205 and amendments thereto. The board shall have authority  
 11 to write rules and regulations to carry out the provisions of this section.

12 (g) The board may adopt rules and regulations as necessary to ad-  
 13 minister the mental health technician's licensure act.

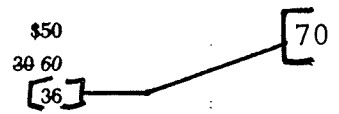
14 Sec. 9. K.S.A. 65-4208 is hereby amended to read as follows: 65-  
 15 4208. The board shall collect in advance the fees provided for in this act,  
 16 the amount of which shall be fixed by the board by rules and regulations,  
 17 but not to exceed:

18 (a) Mental health technician programs:

19 Annual renewal of program approval .....	\$110
20 Survey of a new program .....	220
21 Application for approval of continuing education providers .....	200
22 Annual fee for continuing education providers .....	75

23 (b) Mental health technicians:

24 Application for license .....	\$50
25 Application for renewal of license .....	39 60
26 Application for reinstatement .....	36
27 Application for reinstatement of license with temporary permit .....	75
28 Certified copy of license .....	12
29 Duplicate of license .....	12
30 Inactive license .....	20
31 Examination .....	40
32 Reexamination .....	40
33 Verification of current Kansas license to other states .....	11
34 Application for exempt license .....	50
35 Application for biennial renewal of exempt license .....	50



36 Sec. 10. K.S.A. 65-4921 is hereby amended to read as follows: 65-  
 37 4921. As used in K.S.A. 65-4921 through 65-4930, and amendments  
 38 thereto:

39 (a) "Appropriate licensing agency" means the agency that issued the  
 40 license to the individual or health care provider who is the subject of a  
 report under this act.

(b) "Department" means the department of health and environment.

43 (c) "Health care provider" means: (1) Those persons and entities de-



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2 fined as a health care provider under K.S.A. 40-3401 and amendments  
3 thereto; and (2) a dentist licensed by the Kansas dental board, a dental  
4 hygienist licensed by the Kansas dental board, a professional nurse li-  
5 censed by the board of nursing, a practical nurse licensed by the board  
6 of nursing, *an advanced registered nurse practitioner certified by the*  
7 *board of nursing*, a mental health technician licensed by the board of  
8 nursing, a physical therapist assistant certified by the state board of heal-  
9 ing arts, an occupational therapist registered by the state board of healing  
10 arts, an occupational therapy assistant registered by the state board of  
11 healing arts and a respiratory therapist registered by the state board of  
12 healing arts.

12 (d) "License," "licensee" and "licensing" include comparable terms  
13 which relate to regulation similar to licensure, such as registration.

14 (e) "Medical care facility" means: (1) A medical care facility licensed  
15 under K.S.A. 65-425 et seq. and amendments thereto; (2) a private psy-  
16 chiatric hospital licensed under K.S.A. 75-3307b and amendments  
17 thereto; and (3) state psychiatric hospitals and state institutions for the  
18 mentally retarded, as follows: Larned state hospital, Osawatomie state  
19 hospital, Rainbow mental health facility, Topeka state hospital, Kansas  
20 neurological institute, ~~Norton state hospital~~, Parsons state hospital and  
21 training center and Winfield state hospital and training center.

22 (f) "Reportable incident" means an act by a health care provider  
23 which: (1) Is or may be below the applicable standard of care and has a  
24 reasonable probability of causing injury to a patient; or (2) may be grounds  
25 for disciplinary action by the appropriate licensing agency.

26 (g) "Risk manager" means the individual designated by a medical care  
27 facility to administer its internal risk management program and to receive  
28 reports of reportable incidents within the facility.

29 (h) "Secretary" means the secretary of health and environment.

30 Sec. 11. K.S.A. 65-1131, 65-4208 and 65-4921 and K.S.A. 1996 Supp.  
31 65-1115, 65-1116, 65-1118, 65-1120, 65-1124, 65-1152 and 65-4203 are  
32 hereby repealed.

33 Sec. 12. This act shall take effect and be in force from and after its  
34 publication in the statute book.

BALLOON 2

**65-4209. Denial, revocation or suspension of license.** (a) The board may deny, revoke, limit or suspend any license to practice as a mental health technician issued or applied for in accordance with the provisions of this act, or may publicly or privately censure a licensee or may otherwise discipline a licensee upon proof that the licensee:

(1) is guilty of fraud or deceit in procuring or attempting to procure a license to practice mental health technology;

(2) Is unable to practice with reasonable skill and safety due to current abuse of drugs or alcohol;

(3) to be a person who has been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not been restored to capacity under that act;

(4) is incompetent or grossly negligent in carrying out the functions of a mental health technician;

(5) has committed unprofessional conduct as defined by rules and regulations of the board;

(6) has been convicted of a felony or has been convicted of a misdemeanor ~~involving an illegal drug offense, if the board determines, after investigation, that the person has not been sufficiently rehabilitated~~ or a violation of a corresponding municipal ordinance unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust;

(7) has committed an act of professional incompetency as defined in subsection (e);

(8) to have willfully or repeatedly violated the provisions of the mental health technician's licensure act or rules and regulations adopted under that act and amendments thereto; or

(9) to have a license to practice mental health technology denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph (9).

(b) Proceedings. Upon filing of a sworn complaint with the board charging a person with having been guilty of any of the unlawful practices specified in subsection (a), two or more members of the board shall investigate the charges, or the board may designate and authorize an employee or employees of the board to conduct an investigation. After investigation, the board may institute charges. If an investigation, in the opinion of the board, reveals reasonable grounds to believe the applicant or licensee is guilty of the charges, the board shall fix a time and place for proceedings, which shall be conducted in accordance with the Kansas administrative procedure act.

## BALLOON 2

(c) No person shall be excused from testifying in any proceedings before the board under the mental health technician's licensure act or in any civil proceedings under such act before a court of competent jurisdiction on the ground that the testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state except the crime of perjury as defined in K.S.A. 21-3805 and amendments thereto.

(d) If final agency action of the board in a proceeding under this section is adverse to the applicant or licensee, the costs of the board's proceedings shall be charged to the applicant or licensee as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed by the board according to the statutes relating to procedure in the district court. All costs accrued by the board, when it is the successful party, and which the attorney general certifies cannot be collected from the applicant or licensee shall be paid from the board of nursing fee fund. All moneys collected following board proceedings shall be credited in full to the board of nursing fee fund.

(e) As used in this section, "professional incompetency" means:

- (1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;
- (2) repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board; or
- (3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice mental health technology.

(f) The board upon request shall receive from the Kansas bureau of investigation, without charge, such criminal history record information relating to arrests and criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of and applicants for licensure by the board.

(g) All proceedings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

## SENATE BILL No. 165

By Committee on Public Health and Welfare

1-31

9 AN ACT concerning the board of nursing; licensees thereof; continuing  
10 education; membership on the board; amending K.S.A. 65-1119 and  
11 65-4206 and K.S.A. 1996 Supp. 65-1117, 65-4205 and 74-1106 and  
12 repealing the existing sections.

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

15 Section 1. K.S.A. 1996 Supp. 65-1117 is hereby amended to read as  
16 follows: 65-1117. (a) All licenses issued under the provisions of this act,  
17 whether initial or renewal, shall expire every two years. The expiration  
18 date shall be established by the rules and regulations of the board. The  
19 board shall mail an application for renewal of license to every registered  
20 professional nurse and licensed practical nurse at least 60 days prior to  
21 the expiration date of such person's license. Every person so licensed who  
22 desires to renew such license shall file with the board, on or before the  
23 date of expiration of such license, a renewal application together with the  
24 prescribed biennial renewal fee. Every licensee who is no longer engaged  
25 in the active practice of nursing may so state by affidavit and submit such  
26 affidavit with the renewal application. An inactive license may be re-  
27 quested along with payment of a fee which shall be fixed by rules and  
28 regulations of the board. Except for the first renewal period following  
29 licensure by examination or for the first nine months following licensure  
30 by reinstatement or endorsement, the board shall require every licensee  
31 with an active nursing license to submit with the renewal application  
32 evidence of satisfactory completion of a program of continuing *nursing*  
33 education required by the board. The board by duly adopted rules and  
34 regulations shall establish the requirements for such program of contin-  
35 uing *nursing* education. Continuing ~~nurse~~ *nursing* education means ~~or-~~  
36 ~~ganized learning experiences which are designed to enhance knowledge,~~  
37 ~~improve skills and develop attitudes that enhance nursing and improve~~  
38 ~~health care to the public intended to build upon the educational and~~  
39 ~~experiential bases of the registered professional and licensed practical~~  
40 ~~nurse for the enhancement of practice, education, administration, re-~~  
41 ~~search or theory development to the end of improving the health of the~~  
42 ~~public.~~ Upon receipt of such application, payment of fee, upon receipt of  
43 the evidence of satisfactory completion of the required program of con-

Senate Public Health & Welfare  
Date: 2-21-97  
Attachment No. 5

and regulations to maintain the accreditation status.

2 (b) *Schools for professional nurses.* To qualify as an accredited school  
3 for professional nurses, the school must be conducted in the state of  
4 Kansas, and shall apply to the board and submit evidence that: (1) It is  
5 prepared to carry out the professional curriculum as prescribed in the  
6 rules and regulations of the board; and (2) it is prepared to meet such  
7 other standards as shall be established by this law and the rules and reg-  
8 ulations of the board. ~~The board shall establish by rules and regulations~~  
9 ~~curriculum requirements for associated degree nursing programs accred-~~  
10 ~~ited under this statute. The board shall establish by rules and regulations~~  
11 ~~curriculum requirements for baccalaureate degree nursing programs ac-~~  
12 ~~credited under this statute.~~

13 (c) *Schools for practical nurses.* To qualify as an accredited school for  
14 practical nurses, the school must be conducted in the state of Kansas, and  
15 shall apply to the board and submit evidence that: (1) It is prepared to  
16 carry out the curriculum as prescribed in the rules and regulations of the  
17 board; and (2) it is prepared to meet such other standards as shall be  
18 established by this law and the rules and regulations of the board.

19 (d) *Survey.* The board shall prepare and maintain a list of accredited  
20 schools for both professional and practical nurses whose graduates, if they  
21 have the other necessary qualifications provided in this act, shall be eli-  
22 gible to apply for a license as a registered professional nurse or as a  
23 licensed practical nurse. A survey of the institution or institutions and of  
24 the schools applying for accreditation shall be made by an authorized  
25 employee of the board or members of the board, who shall submit a  
26 written report of the survey to the board. If, in the opinion of the board,  
27 the requirements as prescribed by the board in its rules and regulations  
28 for an accredited school for professional nurses or for practical nurses are  
29 met, it shall so approve and accredit the school as either a school for  
30 professional nurses or practical nurses, as the case may be. From time to  
31 time, as deemed necessary by the board, it shall cause to be made a  
32 resurvey of accredited schools and written reports of such resurveys sub-  
33 mitted to the board. If the board determines that any accredited school  
34 of nursing is not maintaining the standards required by this act and by  
35 rules and regulations prescribed by the board, notice thereof in writing,  
36 specifying the failures of such school, shall be given immediately to the  
37 school. A school which fails to correct such conditions to the satisfaction  
38 of the board within a reasonable time shall be removed from the list of  
39 accredited schools of nursing until such time as the school shall comply  
40 with the standards. All accredited schools shall maintain accurate and  
41 current records showing in full the theoretical and practical courses given  
42 to each student.

43 (e) *Providers of continuing nursing education.* (1) To qualify

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(d) Providers of continuing education. (1) To qualify as an approved provider of continuing education offerings, persons, organizations or institutions proposing to provide such continuing education offerings shall apply to the board for approval and submit evidence that the applicant is prepared to meet the standards and requirements established by the rules and regulations of the board for such continuing education offerings. Initial applications shall be made in writing on forms supplied by the board and shall be submitted to the board together with the application fee fixed by the board.

(2) A long-term provider means a person, organization or institution that is responsible for the development, administration and evaluation of continuing education programs and offerings. Qualification as a long-term approved provider of continuing education offerings shall expire five years after the granting of such approval by the board. An approved long-term provider of continuing education offerings shall submit annually to the board the annual fee established by rules and regulations, along with an annual report for the previous fiscal year. Applications for renewal as an approved long-term provider of continuing education offerings shall be made in writing on forms supplied by the board.

(3) Qualification as an approved provider of a single continuing education offering, which may be offered once or multiple times, shall expire two years after the granting of such approval by the board. Approved single continuing education providers shall not be subject to an annual fee or annual report.

(4) In accordance with rules and regulations adopted by the board, the board may approve individual educational offerings for continuing education which shall not be subject to approval under other subsections of this section.

(5) The board shall accept offerings as approved continuing education presented by: Colleges that are approved by a state or the national department of education and providers approved by other state boards of nursing, the national league for nursing, the national federation of licensed practical nurses, the American nurses credentialing center or other such national organizations as listed in rules and regulations adopted by the board.

Sec. 5. K.S.A. 1996 Supp. 74-1106 is hereby amended to read as follows: 74-1106. (a) Appointment, term of office. (1) The governor shall appoint a board consisting of 11 members of which ~~five~~ shall be registered professional nurses, two shall be licensed practical nurses, ~~two~~ shall be licensed mental health ~~technicians~~ and two shall be members of the general public, which shall constitute a board of nursing, with the duties, power and authority set forth in this act. The members of the board of nursing holding office on the effective date of this amendment shall continue

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1 ~~time as members until the expiration of their respective terms.~~

2 ~~[(2) Upon the expiration of the term of any registered professional~~  
 3 ~~nurse, licensed practical nurse, or licensed mental health technician, in-~~  
 4 ~~dividuals may submit to the governor lists of licensees' names for the~~  
 5 ~~positions open on the board. Appointments shall be made after consid-~~  
 6 ~~eration of such lists and individual applications for terms of four years~~  
 7 ~~and until a successor is appointed and qualified.]~~

8 (2) (3) Upon the expiration of the term of any registered professional  
 9 nurse, the Kansas state nurses association shall submit to the governor a  
 10 list of registered professional nurses containing names of not less than  
 11 three times the number of persons to be appointed, and appointments  
 12 shall be made after consideration of such list for terms of four years and  
 13 until a successor is appointed and qualified.

14 (3) (4) On the effective date of this act, the Kansas federation of  
 15 licensed practical nurses shall submit to the governor a list of licensed  
 16 practical nurses containing names of not less than three times the number  
 17 of persons to be appointed, and appointments shall be made after con-  
 18 sideration of such list, with the first appointment being for a term of four  
 19 years and the second appointment being for a term of two years. Upon  
 20 the expiration of the term of any licensed practical nurse, a successor of  
 21 like qualifications shall be appointed in the same manner as the original  
 22 appointment for a term of four years and until a successor is appointed  
 23 and qualified.

24 (4) (5) Upon the expiration of the term of any mental health tech-  
 25 nician, the Kansas association of human services technologies shall submit  
 26 to the governor a list of persons licensed as mental health technicians  
 27 containing names of not less than three times the number of persons to  
 28 be appointed, and appointments shall be made after consideration of such  
 29 list for terms of four years and until a successor is appointed and qualified.

30 (5) (6) Each member of the general public shall be appointed for a  
 31 term of four years and successors shall be appointed for a like term.

32 (6) (7) Whenever a vacancy occurs on the board of nursing, it shall  
 33 be filled by appointment for the remainder of the unexpired term in the  
 34 same manner as the preceding appointment. No person shall serve more  
 35 than two consecutive terms as a member of the board of nursing and  
 36 appointment for the remainder of an unexpired term shall constitute a  
 37 full term of service on such board.

38 (b) *Qualifications of members.* Each member of the board shall be a  
 39 citizen of the United States and a resident of the state of Kansas. Regis-  
 40 tered professional nurse members shall possess a license to practice as a  
 41 professional nurse in this state with at least five years' experience in nurs-  
 42 ing as such and shall be actively engaged in *professional nursing in Kansas*  
 43 at the time of appointment and reappointment. The licensed practical

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 And by renumbering paragraphs accordingly

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1 nurse members shall be graduated from an accredited practical nurse  
 2 program, hold a diploma from an accredited high school or have otherwise  
 3 obtained the equivalent of a high school education and be licensed to  
 4 practice practical nursing in the state with at least five years' experience  
 5 in practical nursing and shall be actively engaged in practical nursing in  
 6 Kansas at the time of appointment and reappointment. Upon the expi-  
 7 ration of the terms of the registered professional nurse members holding  
 8 office on July 1, 1993, The governor shall appoint successors so that the  
 9 registered professional nurse membership of the board shall consist of  
 10 two members who are engaged in nursing service, two members who are  
 11 engaged in nursing education and one member who is engaged in practice  
 12 as an advanced registered nurse practitioner or a registered nurse anes-  
 13 thetist. The registered professional nurse members of the board holding  
 14 office on the effective date of this act shall continue as members until the  
 15 expiration of their respective terms. The licensed mental health techni-  
 16 cian members shall be high school graduates or shall have obtained the  
 17 equivalent of a high school education and shall be licensed to practice as  
 18 licensed mental health technicians in the state with at least five years'  
 19 experience at the time of appointment and reappointment. The consumer  
 20 members shall represent the interests of the general public. Each mem-  
 21 ber of the board shall take and subscribe the oath prescribed by law for  
 22 state officers, which oath shall be filed with the secretary of state.

at least

member

technician

and shall be actively engaged in the field of mental health technology in Kansas

23 (c) *Duties and powers.* (1) The board shall meet annually at Topeka  
 24 during the month of July ~~September~~ and shall elect from its members a  
 25 president, vice-president and secretary, each of whom shall hold their  
 26 respective offices for one year. The board shall employ an executive ad-  
 27 ministrato, who shall be a registered professional nurse, who shall not  
 28 be a member of the board and who shall be in the unclassified service  
 29 under the Kansas civil service act, and shall employ such other employees,  
 30 who shall be in the classified service under the Kansas civil service act as  
 31 necessary to carry on the work of the board. As necessary, the board shall  
 32 be represented by an attorney appointed by the attorney general as pro-  
 33 vided by law, whose compensation shall be determined and paid by the  
 34 board with the approval of the governor. The board may hold such other  
 35 meetings during the year as may be deemed necessary to transact its  
 36 business.

37 (2) The board may adopt rules and regulations not inconsistent with  
 38 this act necessary to carry into effect the provisions thereof, and such  
 39 rules and regulations may be published and copies thereof furnished to  
 40 any person upon application.

(3) The board shall prescribe curricula and standards for professional  
 and practical nursing programs and mental health technician programs,  
 and provide for surveys of such schools and courses at such times as it