

Approved: 3-26-97
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 March 25, 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:

Others attending: See attached list

Briefing on HB 2278 - Restrictions on persons operating, working or volunteering in adult care homes

Staff briefed the Committee on HB 2278 which was amended on the House floor and currently awaiting final action in the House. The bill deals with restrictions on persons operating, working or volunteering in adult care homes and requires background checks on certain personnel. The bill was adapted after statutes relating to child care facilities. (Attachment 1) It was noted during Committee discussion that there would be approximately 71,000 background checks on adult home personnel if this bill is implemented.

Subcommittee Report on HB 2185 - Adult care home administrators continuing education sponsors

Senator Hardenburger, Chair of the subcommittee on HB 2185, reported that the subcommittee recommended the bill be returned to its original language and a task force be established to study the issues and policies impacting the state's elderly population. (Attachment 2)

Action on HB 2185

Senator Hardenburger made a motion to amend HB 2185 back to its original language by reinserting "assisted living facility licensed for more than 60 residents" on page 1, line 22; page 1, remove new language on lines 35 to 39; and remove all of Section 3, seconded by Senator Lee. The motion carried.

Senator Hardenburger made a motion the Committee recommend HB 2185 as amended favorably for passage, seconded by Senator Langworthy. The motion carried.

The Chair noted that a Resolution would be drafted by staff to recommend a task force be created to study the long-term care issues. Action on the Resolution would be taken at the next meeting.

Briefing on SB 242 - Respiratory therapist licensure

Staff briefed the Committee on recommended changes to SB 242 as shown in the balloon of the bill. (Attachment 3) The Chair noted that because of lack of time, action on the bill would be considered at the next Committee meeting.

Adjournment

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

The next meeting is scheduled for March 26, 1997.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 3-25-97

NAME	REPRESENTING
Steve Splichal	Atchison Middle School Atchison, KS
Lisa Meyer	KS Governmental Consulting
Kathie Coomis	HB 2255 - PKU Children
MARK STUEVE	HB 2255 - PKU Children
Don Richardson	KRCG
Janet (Stybbe)	KRCG
Laura Strand	KS Advocates for Better Care

Statute # 65-516

Chapter 65.--PUBLIC HEALTH

Article 5.--MATERNITY CENTERS AND CHILD CARE FACILITIES

Title Restrictions on persons maintaining or residing, working or volunteering at child care facility or family day care home.

Note] (a) No person shall knowingly maintain a child care facility or maintain a family day care home if, in the child care facility or family day care home, there resides, works or regularly volunteers any person who:

(1) (A) Has a felony conviction for a crime against persons, (B) has a felony conviction under the uniform controlled substances act,

(C) has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto or a conviction of an attempt under K.S.A. 21-3301 and amendments thereto to commit any such act, or (D) has been convicted of any act which is described in K.S.A. 21-4301 or 21-4301a and amendments thereto or similar statutes of other states or the federal government;

(2) has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of a felony and which is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto, or is any act described in K.S.A. 21-4301 or 21-4301a and amendments thereto or similar statutes of other states or the federal government;

(3) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse as validated by the department of social and rehabilitation services pursuant to K.S.A. 38-1523 and amendments thereto and (A) the person has failed to successfully complete a corrective action plan which had been deemed appropriate and approved by the department of social and rehabilitation services, or (B) the record has not been expunged pursuant to rules and regulations adopted by the secretary of social and rehabilitation services;

(4) has had a child declared in a court order in this or any other state to be deprived or a child in need of care based on an allegation of physical, mental or emotional abuse or neglect or sexual abuse;

(5) has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 38-1581 through 38-1584, and amendments thereto, or a similar statute of other states;

(6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et seq., and amendments thereto, or pursuant to K.S.A. 38-1635 and amendments thereto involving a charge of child abuse or a sexual offense; or

(7) has an infectious or contagious disease.

(b) No person shall maintain a child care facility or a family day care home if such person has been found to be a disabled person in need of a guardian or conservator, or both.

(c) Any person who resides in a child care facility or family day care home and who has been found to be a disabled person in need of a guardian or conservator, or both, shall be counted in the total number of children allowed in care.

(d) In accordance with the provisions of this subsection (d), the secretary shall have access to any court orders or adjudications of any court of record, any records of such orders or adjudications, criminal history record information in the possession of the Kansas bureau of investigation and any report of investigations as authorized by subsection

(e) of K.S.A. 38-1523 and amendments thereto in the possession of the department of social and rehabilitation services or court of this state concerning persons working, regularly volunteering or residing in a child care facility or a family day care home. The secretary shall have access to these records for the purpose of determining whether or not the home meets the requirements of K.S.A. 65-516 and 65-519 and amendments thereto.

(e) No child care facility or family day care home or the employees thereof, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such facility's or home's compliance with the provisions of this section if such home acts in good faith to comply with this section.

(f) For the purpose of subsection (a)(3), an act of abuse or neglect shall not be considered to have been validated by the department of social and rehabilitation services unless the alleged perpetrator has: (1) Had an opportunity to be interviewed and present information during the investigation of the

alleged act of abuse or neglect; and (2) been given notice of the agency decision and an opportunity to appeal such decision to the secretary and to the courts pursuant to the act for judicial review and civil enforcement of agency actions.

History

History: L. 1980, ch. 184, S. 2; L. 1982, ch. 259, S. 2; L. 1983, ch. 140, S. 46; L. 1984, ch. 225, S. 1; L. 1985, ch. 210, S. 1; L. 1987, ch. 233, S. 1; L. 1988, ch. 232, S. 10; L. 1991, ch. 185, S. 1; L. 1994, ch. 279, S. 15; July 1.

Case Annotations

Law Review and Bar Journal References:

"Expungement: Lies That Can Hurt You in and out of Court," Steven K. O'Hern, 27 W.L.J. 574, 578, 586, 589, 598 (1988).

Attorney General's Opinions: Persons prohibited from employment by homes for children; effect of expungement of offense. 84-115. Persons prohibited from operating maternity hospitals and homes for children; effect of expungement of prior conviction. 85-50. Persons prohibited from employment in boarding homes for children or family day care homes; effect of certain misdemeanor convictions. 85-154.

Constitutionality of 65-516(a)(3); child abuse validation by the department of social and rehabilitation services. 86-163. KDHE does not violate due process rights for suspension of day care facility's license because of suspected child abuse by employee. 87-110.

Reporting abuse or neglect; contents; evaluation; statewide register. 89-8.

Case Annotations

Revisor's Note:

CAUTION: Section was amended by L. 1996, ch. 229, S. 117, effective July 1, 1997.

Attorney General's Opinions: -

Child care facilities; definitions; Shawnee County youth center. 95-58.

CASE ANNOTATIONS 1. Whether SRS had sufficient reason to revoke day care center's license examined. P.W. v. Kansas Dept. of

SRS, 255 K. 827, 830, 836, 877 P.2d 430 (1994).

M E M O R A N D U M

to: Senate Committee on Public Health and Welfare
from: Norman J. Furse, Revisor of Statutes
subject: Amendments to HB 2278
date: March 24, 1997

The House floor amendments made the following changes to HB 2278:

- (1) Convictions for drug offenses is deleted from the list of crimes to which the act applies.
- (2) K.S.A. 21-3605 (nonsupport of a child or spouse) is deleted from the crimes in article 36 of chapter 21 to which the act applies.
- (3) Technical correction page 3, line 6 (c)(5) should be (c)(4).
- (4) Information relating to convictions and adjudications by the federal government or the states would not be required until such time as the secretary of health and environment determines the search for such information could reasonably be performed and the information obtained within a two-week period.
- (5) Professional persons licensed or registered by the state would be exempt from the act.
- (6) Volunteers are exempt unless the operator elects to make them subject to the provisions of the act.

JANICE L. HARDENBURGER

SENATOR, 21ST DISTRICT
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TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

CHAIRMAN: ELECTIONS AND LOCAL GOVERNMENT
MEMBER: ASSESSMENT AND TAXATION
PUBLIC HEALTH AND WELFARE
JOINT COMMITTEE ON ADMINISTRATIVE
RULES & REGULATIONS
ORGANIZATION, CALENDAR AND RULES

Sub-committee on House Bill 2185

Members: Janice Hardenburger, Chairman
Janis Lee
Richard Becker

The sub-committee met on 25 March, 1997, at 8:00 a.m. in the East Lounge for one hour. The sub-committee unanimously agreed to recommend that House Bill 2185 be returned to the original language -

Section 1; (a), reinsert "assisted living facility licensed for more than 60 residents" (line 21-22, page 1)

Remove lines 35-39 [, except that an administrator may be directly responsible for planning, organizing, directing and controlling the operation of two adult care homes so long as the total licensed beds of such homes do not exceed 100 and the homes are within a 60 mile radius of each other.]

Remove all of Section 3

The sub-committee is concerned about the lack of choices for residential care in the less populated areas of the state. The committee recommends the establishment of a task force to study the issues and policies impacting the state's elderly population.

SENATE BILL No. 242

By Committee on Public Health and Welfare

2-10

9 AN ACT concerning respiratory therapy; relating to licensure; amending
10 K.S.A. 65-5502, 65-5503, 65-5504, 65-5505, 65-5506, 65-5507, 65-
11 5508, 65-5509, 65-5510, 65-5511, 65-5512, 65-5514 and 65-5516 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. 65-5502 is hereby amended to read as follows: 65-
16 5502. As used in K.S.A. 65-5501 to 65-5517, inclusive *and amendments*
17 *thereto:*

18 (a) "Board" means the state board of healing arts.

19 (b) "Respiratory therapy" is a health care profession whose ~~practi-~~
20 ~~tioners are employed therapists practice~~ under the supervision of ~~and~~
21 ~~with the prescription of a licensed physician in the providing~~ therapy,
22 management, rehabilitation, diagnostic evaluation and care of patients
23 with deficiencies and abnormalities which affect the pulmonary system
24 and associated aspects of cardiopulmonary and other systems functions;
25 ~~and includes. The duties which may be performed in any clinic, hospital,~~
26 ~~skilled nursing facility, outpatient setting and private dwelling include~~
27 ~~but are not limited to~~ all of the following:

28 (1) Direct and indirect pulmonary ~~care~~ *respiratory therapy* services
29 that are safe, aseptic, preventative and restorative to the patient.

30 (2) Direct and indirect respiratory ~~care~~ *therapy* services, including
31 but not limited to, the administration of pharmacological and diagnostic
32 and therapeutic agents related to respiratory care procedures necessary
33 to implement a treatment, disease prevention, pulmonary rehabilitative
34 or diagnostic regimen prescribed by a physician.

35 (3) ~~Observation and monitoring of signs and symptoms; general be-~~
36 ~~havior; general physical response to respiratory care treatment and di-~~
37 ~~agnostic testing; determination of whether such signs, symptoms, reac-~~
38 ~~tions; behavior or general response exhibit abnormal characteristics and~~
39 ~~implementation based on observed abnormalities of appropriate report-~~
40 ~~ing or referral or respiratory care protocols; or changes in treatment reg-~~
41 ~~ion; pursuant to a prescription by a physician on the initiation of emer-~~
42 ~~gency procedures.~~

43 (4) The diagnostic and therapeutic use of any of the following, in

by a respiratory therapist

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1 accordance with the prescription of a physician: Administration of medical
 2 gases, exclusive of general anesthesia; aerosols; humidification; environ-
 3 mental control systems and ~~baromedical therapy; pharmacologic; tran-~~
 4 ~~scription and implementation of written or verbal orders of a physician~~
 5 ~~pertaining to the practice of respiratory care; the implementation of res-~~
 6 ~~piratory care protocols as defined by the medical staff of the institution;~~
 7 ~~changes in treatment pursuant to the written or verbal orders of a phy-~~
 8 ~~sician or the initiation of emergency procedures under the regulations of~~
 9 ~~the board or as otherwise permitted in this act. The administration of~~
 10 ~~pharmacological agents related to respiratory care procedures; mechan-~~
 11 ~~ical or, physiological, ventilatory or circulatory support; bronchopulmon-~~
 12 ~~ary hygiene; cardiopulmonary resuscitation; maintenance of the natural~~
 13 ~~airways; insertion and maintenance of [indwelling arterial catheters] and~~
 14 ~~maintenance of artificial airways without cutting tissues and maintenance~~
 15 ~~of artificial airways; diagnostic and testing techniques required for imple-~~
 16 ~~mentation of respiratory care protocols; collection of specimens of blood;~~
 17 ~~collection of specimens from the respiratory tract; analysis of blood gases~~
 18 ~~and respiratory secretions, and electrolytes; and collection and analysis of~~
 19 ~~electrophysiological data.~~

20 (5) ~~The transcription and implementation of the written and verbal~~
 21 ~~orders of a physician pertaining to the practice of respiratory therapy.~~

22 (c) "Respiratory therapist" means a person who is ~~registered licensed~~
 23 ~~to practice respiratory therapy as defined in this act.~~

24 (d) "Person" means any individual, partnership, unincorporated or-
 25 ~~ganization or corporation.~~

26 (e) "Physician" means a person who is licensed by the board to prac-
 27 ~~tice medicine and surgery.~~

28 (f) "~~Qualified medical director~~" means the medical director of any
 29 ~~inpatient or outpatient respiratory care service, department or home care~~
 30 ~~agency. The medical director shall be a physician who has interest and~~
 31 ~~knowledge in the diagnosis and treatment of respiratory problems. This~~
 32 ~~physician shall be responsible for the quality, safety and appropriateness~~
 33 ~~of the respiratory services provided and require that respiratory care be~~
 34 ~~ordered by a physician who has medical responsibility for the patient.~~
 35 ~~The medical director shall be readily accessible to the respiratory care~~
 36 ~~practitioner.~~

37 Sec. 2. K.S.A. 65-5503 is hereby amended to read as follows: 65-
 38 5503. The board, in the manner as hereinafter provided, shall administer
 39 the provisions of this act.

40 Sec. 3. K.S.A. 65-5504 is hereby amended to read as follows: 65-
 41 5504. (a) There is established a respiratory ~~therapist care~~ council to advise
 42 the board in carrying out the provisions of this act. The council shall
 43 consist of ~~five~~ seven members, all citizens and residents of the state of

KSAA?

non-central arterial catheters with the
 exception of umbilical artery catheters

This term is not used in the bill and should be
 deleted.

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ansas appointed as follows: One member shall be a physician appointed
 2 by the state board of healing arts; one member shall be the president of
 3 the state board of healing arts or a person designated by the president;
 4 ~~two members shall be from the public sector who are not engaged, directly~~
 5 ~~or indirectly, in the provision of health services [and shall be appointed~~
 6 ~~by the governor for a term of two years]~~ and three members shall be
 7 respiratory therapists appointed by the governor. The governor, insofar
 8 as possible, shall appoint persons from different geographical areas and
 9 persons who represent various types of respiratory therapy treatment
 10 practice. If a vacancy occurs on the council, the appointing authority of
 11 the position which has become vacant shall appoint a person of like qual-
 12 ifications to fill the vacant position for the unexpired term, if any. The
 13 Kansas respiratory therapy care society shall recommend the names of
 14 respiratory therapists to the governor in a number equal to at least twice
 15 the positions or vacancies to be filled, and the governor may appoint
 16 members to fill the positions or vacancies from the submitted list. The
 17 terms of the members of the council appointed by the governor prior to
 18 the effective date of this act shall expire on July 1, 1988. Members of the
 19 council appointed by the governor on and after the effective date of this
 20 act shall be appointed for terms of three years and until their successors
 21 are appointed and qualified except that of the members first appointed
 22 by the governor on or after the effective date of this act one shall be
 23 appointed for a term of one year, one shall be appointed for a term of
 24 two years and one shall be appointed for a term of three years; as des-
 25 ignated by the governor. The member appointed by the state board of
 26 healing arts shall serve at the pleasure of the state board of healing arts.
 27 A member designated by the president of the state board of healing arts
 28 shall serve at the pleasure of the president.

(b) Members of the council attending meetings of the council, or
 attending a subcommittee meeting thereof authorized by the council,
 shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and
 amendments thereto from the healing arts fee fund.

Sec. 4. K.S.A. 65-5505 is hereby amended to read as follows: 65-
 5505. The board shall pass upon the qualifications of all applicants for
 examination and ~~registration licensure~~, provide for and conduct all ex-
 aminations, determine the applicants who successfully pass the exami-
 nation, duly register license such applicants and adopt rules and regula-
 tions as may be necessary to administer the provisions of this act. The
 board shall keep a record of all proceedings under this act and a roster
 of all individuals registered licensed under this act. Only an individual
 be registered licensed under this act.

5. K.S.A. 65-5506 is hereby amended to read as follows: 65-
 5506. (a) An applicant applying for registration licensure as a respiratory

See line 25.

, except that members appointed from the public
 sector shall be appointed for terms of two
 years and until their successors are appointed

1 therapist shall file a written application on forms provided by the board,
2 showing to the satisfaction of the board that the applicant meets the
3 following requirements:

4 (1) Education: The applicant shall present evidence satisfactory to the
5 board of having successfully completed the academic requirements of an
6 educational program in respiratory therapy recognized approved by the
7 board.

8 (2) Experience: The applicant shall submit to the board evidence of
9 having successfully completed a period of supervised field work at a min-
10 imum recognized by the board.

11 (3) Examination: The applicant shall pass an examination as provided
12 for in K.S.A. 65-5507 and amendments thereto.

13 (4) (3) Fees: The applicants shall pay to the board all applicable fees
14 established under K.S.A. 65-5509 and amendments thereto.

15 (b) The board shall adopt rules and regulations establishing the cri-
16 teria which how an educational program in respiratory therapy that shall
17 satisfy to be recognized successful recognition by the board under para-
18 graph (1) of subsection (a). The board may send a questionnaire devel-
19 oped by the board to any school or other entity conducting an educational
20 program in respiratory therapy for which the board does not have suffi-
21 cient information to determine whether the program should be recog-
22 nized by the board and whether the program meets the rules and regu-
23 lations adopted under this section. The questionnaire providing the
24 necessary information shall be completed and returned to the board in
25 order for the program to be considered for recognition. The board may
26 contract with investigative agencies, commissions or consultants to assist
27 the board in obtaining information about an educational program in res-
28 piratory therapy. In entering such contracts the authority to recognize an
29 educational program in respiratory therapy shall remain solely with the
30 board.

31 Sec. 6. K.S.A. 65-5507 is hereby amended to read as follows: 65-
32 5507. (a) Each applicant for registration licensure under this act shall be
33 examined by a written examination required chosen by the board to test
34 the applicant's knowledge of the basic and clinical sciences relating to
35 respiratory therapy, and respiratory care theory and practice, including
36 the applicant's professional skills and judgment in the utilization of res-
37 piratory therapy techniques and methods, and such other subjects as the
38 board may deem useful to determine the applicant's fitness to practice.

39 (b) Applicants for registration licensure shall be examined at a time
40 and place and under such supervision as the board may determine. Ex-
41 aminations shall be given at least twice each year at such places within
42 this state as the board may determine and the board shall give or cause
43 to be given reasonable public notice of such examinations at least 60 days

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prior to their administration.

2 (c) Applicants may obtain their examination scores.

3 Sec. 7. K.S.A. 65-5508 is hereby amended to read as follows: 65-
4 5508. (a) The board shall waive the examination, education and experi-
5 ence requirements and grant ~~registration~~ licensure to any person who
6 applies for ~~registration~~ licensure on or before July 1, 1987 1998, who pays
7 the application fee and who, was registered or certified immediately by
8 the state of Kansas prior to the effective date of this act as a respiratory
9 therapist or respiratory therapy technician by the national board for res-
10 piratory care or who has been employed as a respiratory therapist for the
11 purpose of providing respiratory therapy for at least two years within the
12 three-year period immediately prior to the effective date of this act and
13 has passed a licensure examination administered or recognized by the
14 board, providing such credential has not been suspended or revoked.

15 (b) The board may waive the examination, education or experience
16 requirements and grant ~~registration~~ licensure to any applicant who pres-
17 ents proof of current licensure or registration as a respiratory therapist in
18 another state, the District of Columbia or territory of the United States
19 which requires standards for licensure or registration determined by the
20 board to be equivalent to or exceed the requirements for ~~registration~~
21 licensure under this act.

22 (c) At the time of making an application under this section, the ap-
23 plicant shall pay to the board the application fee as required under K.S.A.
24 65-5509 and amendments thereto.

25 (d) The board may issue a special permit to a student enrolled in an
26 approved school of respiratory therapy who applies for such special per-
27 mit on a form provided by the board and who pays to the board the special
28 permit fee as required under K.S.A. 65-5509 and amendments thereto.
29 The special permit shall authorize a student who is enrolled in an ap-
30 proved school of respiratory therapy and who holds such special permit
31 to practice respiratory therapy under the supervision of a registered res-
32 piratory therapist. Such special permit shall expire on the date that the
33 student graduates from an approved school of respiratory therapy or oth-
34 erwise ceases to be enrolled in an approved school of respiratory therapy.

35 (e) The board may issue a temporary ~~registration~~ license to an appli-
36 cant for ~~registration~~ licensure as a respiratory therapist who applies for
37 temporary ~~registration~~ licensure on a form provided by the board, who
38 meets the requirements for ~~registration~~ licensure or who meets all of the
39 requirements for ~~registration~~ licensure except examination and who pays
40 to the board the temporary ~~registration~~ licensing fee as required under
41 S.A. 65-5509 and amendments thereto. Such temporary ~~registration~~
42 ~~msure~~ shall expire one year from the date of issue or on the date that
43 the board approves the application for ~~registration~~ licensure, whichever

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occurs first. No more than one such temporary registration license shall be permitted to any one person, without the majority approval of the members of the board.

(f) The board may waive the examination and education requirements and issue a license to individuals who have not taken and passed a licensure exam administered or approved by the board, yet were registered by the board under the previous act as a respiratory therapist, providing these individuals have been registered by the board and employed as respiratory therapists since the inception of the initial registration act in 1987.

Sec. 8. K.S.A. 65-5509 is hereby amended to read as follows: 65-5509. (a) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:

Application fee, not more than.....	\$40
Temporary registration licensing fee, not more than.....	40
Special permit fee, not more than	40
Registration License renewal fee, not more than.....	40
Registration License late renewal fee, not more than.....	40
Registration License reinstatement fee, not more than.....	40
Certified copy of registration license, not more than.....	20

(b) The board shall charge and collect in advance fees for any examination administered by the board under the respiratory therapy practice act as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination. If the examination is not administered by the board, the board may require that fees paid for any examination under the respiratory therapy practice act be paid directly to the examination service by the person taking the examination.

Sec. 9. K.S.A. 65-5510 is hereby amended to read as follows: 65-5510. (a) The board may deny, refuse to renew, suspend or revoke a registration license where the registrant licensee or applicant for registration licensure has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

- (1) Obtaining a registration license by means of fraud, misrepresentation or concealment of material facts;
- (2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board;
- (3) being convicted of a felony if the acts for which such person was convicted are found by the board to have a direct bearing on whether person should be entrusted to serve the public in the capacity of a respiratory therapist;
- (4) violating any lawful order or rule and regulation of the board; and

Note: Limits "grandfather" to those who have passed licensure exam unless originally registered in "1987." Equal protection problem. See also p. 5, l. 3-14. Usual policy of legislature in changing from registration to licensure is to provide that all persons registered become licensed on the effective date of the act. See K.S.A. 65-1631 as an example.

Note: In line 10, original act effective 7-1-86.

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(5) violating any provision of this act.

2 (b) Such denial, refusal to renew, suspension or revocation of a reg-
 3 istration license may be ordered by the board after notice and hearing on
 4 the matter in accordance with the provisions of the Kansas administrative
 5 procedure act. Upon the end of the period of time established by the
 6 board for the revocation of a registration license, application may be made
 7 to the board for reinstatement. The board shall have discretion to accept
 8 or reject an application for reinstatement and may hold a hearing to con-
 9 sider such reinstatement. An application for reinstatement shall be ac-
 10 companied by the registration licensing reinstatement fee established un-
 11 der K.S.A. 65-5509 and amendments thereto.

12 Sec. 10. K.S.A. 65-5511 is hereby amended to read as follows: 65-
 13 5511. Foreign trained respiratory therapists shall satisfy the examination
 14 requirements of K.S.A. 65-5506 and amendments thereto. The board shall
 15 require foreign trained applicants to furnish proof of completion of ed-
 16 ucational and supervised field work requirements, substantially equal to
 17 or greater than those contained in K.S.A. 65-5506 and amendments
 18 thereto prior to taking the examination.

19 Sec. 11. K.S.A. 65-5512 is hereby amended to read as follows: 65-
 20 5512. (a) Registrations Licenses issued under this act shall be effective
 21 for a period of one year and shall expire at the end of such period of time
 22 unless renewed in the manner prescribed by the board, upon the payment
 23 of the registration license renewal fee established under K.S.A. 65-5509
 24 and amendments thereto. The board may establish additional require-
 25 ments for registration license renewal which provide evidence of contin-
 26 ued competency. The board may provide for the late renewal of a reg-
 27 istration license upon the payment of a late fee established under K.S.A.
 28 65-5509 and amendments thereto, but no such late renewal of a registra-
 29 tion license may be granted more than five years after its expiration.

30 (b) A person whose registration license is suspended shall not engage
 31 in any conduct or activity in violation of the order or judgment by which
 32 the registration license was suspended. If a registration license revoked
 33 on disciplinary grounds is reinstated, the registrant licensee, as a condition
 34 of reinstatement, shall pay the registration license renewal fee and any
 35 late fee that may be applicable.

36 Sec. 12. K.S.A. 65-5514 is hereby amended to read as follows: 65-
 37 5514. (a) On and after July 1, 1987 1998, it shall be unlawful for any
 38 person who is not registered licensed under this act as a respiratory ther-
 39 apist or whose registration license has been suspended or revoked to use,
 40 in connection with such person's name or place of business, hold them-
 41 selves out to the public as a licensed respiratory therapist, or use the
 42) breviation of CRTT, RRT, RCP or the words "respiratory therapist,"
 43 respiratory therapist registered," "respiratory care practitioner" or, "in-

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1 halation therapist" or any other words, letters, abbreviations or insignia
2 indicating or implying that such person is a respiratory therapist, or who
3 in any way, orally, in writing, in print or by sign, directly or by implication,
4 represents oneself as a respiratory therapist to practice the art and science
5 of respiratory therapy as herein defined.

Insert criminal penalty p. 9, lines 13 and 14.

6 (b) ~~The respiratory therapy practice act recognizes the existence of~~
7 ~~overlapping functions between health care providers. Therefore, nothing~~
8 in this act is intended to limit, preclude or otherwise interfere with the
9 practices of other health care providers formally trained and licensed,
10 credentialed or certified by appropriate agencies of the state of Kansas.
11 The practice of respiratory therapy shall not be construed to include the
12 following individuals:

Nothing

13 (1) Persons rendering gratuitous services in the case of an emergency.
14 (2) Members of any church practicing their religious tenets ~~provided~~
15 ~~they shall not be exempt from complying with all public health regulations~~
16 ~~of the state~~

registered,

Gratuitous services only?

(am)
strike
gratuitous
and
assistance

17 (3) Persons whose services are performed ~~via~~ the delegation of and
18 under the supervision of a respiratory therapist who is licensed under this
19 act.

pursuant to

20 (4) Healthcare providers in the United States armed forces, public
21 health services, and coast guard or other military service when acting in
22 the line of duty in this state.

Persons working in federal facilities?

23 (5) Medical practitioners licensed under the ~~Healing Arts Act~~ and
24 practicing their professions, when licensed and practicing in accordance
25 with the provisions of ~~the Kansas Statutes, or amendments thereto,~~ or
26 persons performing services pursuant to the delegation of a licensed phy-
27 sician under subsection (g) of K.S.A. 65-2872 and amendments thereto
28 ~~and any interpretation thereof by the supreme court of this state~~

healing arts act

29 (6) Dentists practicing their professions, when licensed and practicing
30 in accordance with the provisions of ~~the Kansas Statutes Annotated, and~~
31 ~~amendments thereto, and any interpretation thereof by the supreme court~~
32 ~~of this state~~

law

33 (7) Nurses practicing their professions, when licensed and practicing
34 in accordance with the provisions of ~~the Kansas nurse practice act, and~~
35 ~~amendments thereto,~~ or persons performing services pursuant to the del-
36 egation of a licensed nurse under subsection (m) of K.S.A. 65-1124 and
37 amendments thereto ~~and any interpretation thereof by the supreme court~~
38 ~~of this state~~

law

39 (8) Health care providers who have been formally trained and have
40 passed a credentialing or certification examination and are practicing in
41 accordance with the training and provisions of their respective creden-
42 tialing organization or have received specific training in one or more
43 functions included in this act pursuant to established educational proto-

Educational protocols?

3-9

cols or both.

2 (9) Students while in actual attendance in an accredited health care
3 occupational educational program and under the supervision of a quali-
4 fied instructor.

5 (c) Durable medical equipment companies may deliver and set-up
6 respiratory equipment pursuant to a written prescription by a physician.
7 Any instructions to the patient or client regarding the clinical use of said
8 equipment, any patient monitoring, assessment or other procedures de-
9 signed to evaluate the effectiveness of prescribed therapy must be per-
10 formed by or ~~or~~ the delegation of a licensed respiratory therapist or other
11 health care provider formally trained and licensed or otherwise creden-
12 tialied by appropriate agencies of the state of Kansas.

13 (d) Any violation of this section shall constitute a class G B misde-
14 meanor.

15 (e) Nothing in this act shall be construed to permit the practice of
16 medicine

17 Sec. 13. K.S.A. 65-5516 is hereby amended to read as follows: 65-
18 5516. All state agency adjudicative proceedings under K.S.A. 65-5501 to
19 65-5517, inclusive, shall be conducted in accordance with the provisions
20 of the Kansas administrative procedure act and shall be reviewable in
21 accordance with the act for judicial review and civil enforcement of
22 agency actions.

23 Sec. 14. K.S.A. 65-5502, 65-5503, 65-5504, 65-5505, 65-5506, 65-
24 5507, 65-5508, 65-5509, 65-5510, 65-5511, 65-5512, 65-5514 and 65-5516
25 are hereby repealed.

26 Sec. 15. This act shall take effect and be in force from and after its
27 publication in the statute book.

Other possible exclusions - see attached.

Durable medical equipment companies?

pursuant to

Delete lines 13 and 14 here and move to p. 8,
l. 5

Penalty change from C to B misdemeanor

and surgery. No statute granting authority to
licensees of the state board of healing arts
shall be construed to confer authority upon
respiratory therapists to engage in any
activity not conferred by this act

Note: There appears to be no need for this
change in K.S.A. 65-5516.

Should this be January 1, 1998?

Additional sections need terminology change:

- 39-952
- 40-12a01
- 40-3103
- 65-4116
- 65-4915
- 65-4921
- 74-4916
- 74-4960a

P-1-E

-Other Possible Exceptions

-- Self-care by a patient or gratuitous care by a friend or family member who does not represent or hold out to the public to be a respiratory therapist;

-- Monitoring, installation or delivery of medical devices, gases and equipment and the maintenance thereof by a nonlicensed person for the express purpose of self-care by a patient or gratuitous care by a friend or family member;

-- Respiratory therapy services rendered in the course of an emergency;

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