

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Carlos Mayans, at 1:30 p.m. on March 19, 1998 in Room 423-S-of the State Capitol.

All members were present.

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

Conferees appearing before the committee:

Gary Mitchell, Secretary of Health and Environment
Sally Finney, Executive Director, Kansas Public Health Association
Richard Baker, Chairman, Kansas Lead Council
Sam Umscheid, President, Lead Busters of Metropolitan Kansas City
Jo Funk, Member, Board Member, Kansas Association of Sanitarians
Ronnie Thorp, Wyandotte County
Barry Brooks, KDHE Director, Lead-Based Abatement Program

Others attending: See Guest List ([Attachment 1](#))

The minutes of the committee meeting held on March 18, 1998 were distributed for review and, by policy, will be approved as read if no changes are reported to the Chairperson by 5:00 p.m. March 19.

Chairperson Mayans opened the hearing on **Substitute for SB 437** - Childhood lead poisoning prevention program.

Gary Mitchell, Secretary of Health and Environment, testified in support of the bill, and first played a 30-second public service announcement video to visually emphasize the Kansas public awareness program for prevention of lead poisoning. Secretary Mitchell stated it is important to continue the awareness program. He enumerated the bill's provisions, which include (1) measures to address poisoning prevention, (2) licensing, certification, of businesses, public entities and individuals involved in removal of lead hazards; (3) accreditation of training programs ; (4) and assist local health departments in developing a program and following up on cases of elevated blood lead levels in children. (See testimony, [Attachment 2](#).)

Sally Finney, of the Kansas Public Health Association, testified in support of the bill. She outlined the provisions which (1) involves homeowners rights for inspection, risk assessment and abatement programs when lead is found; (2) continues the public education program; and (3) allows communities to apply for HUD grant funding for remediation of low income family homes. (See testimony, [Attachment 3](#).)

Richard Baker, of the Kansas Lead Council, testified in support of the bill, emphasizing the Council's work in preventing lead poisoning; and strongly urged its passage to protect children. He noted that passage of the bill will insure that Kansas regulates this important program (See testimony, [Attachment 4](#).)

Sam Umscheid, of Lead Busters of Metropolitan Kansas City, described the work of his organization and indicated it was organized to respond to the problems encountered by those in metropolitan Kansas City who found lead contamination in buildings and homes and could find no answers. He provided maps of Wyandotte County to indicate the number of housing units built prior to 1950, and the number of 1994 births in the area that overlap the 1950 map. (See [Attachment 5](#).) He noted that Kansas City, Missouri just received a \$200,000 HUD grant to improve their program. He strongly recommended passage of the bill.

Jo Funk, a Saline County Sanitarian and board member of the Kansas Association of Sanitarians, expressed support for **Substitute for SB 437**, stating it will allow better access for local sanitarians to new information and re-training on lead poisoning. (See testimony, [Attachment 6](#).)

Ronnie Thorp, of Wyandotte County, related the experiences of a child who suffered severe lead poisoning. The landlord, in response to the problem, made it worse by sandblasting the paint--and that also poisoned other children and adults in the home. The child experienced a 70% hearing loss, medical bills amounted to about \$76,000, and the school district expends \$13,000 a year to tutor him.

CONTINUATION PAGE

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S State Capitol at 1:30 p.m. on March 19, 1998

Chairperson Mayans advised that written testimony in support of the bill had been received from Debbie Nickels of the Jefferson County Health Department (Attachment 7) and Terri Roberts, of the Kansas State Nurses Association (Attachment 8).

Chairperson Mayans noted that the bill establishes a lead-based paint fee fund and asked why it was specifically for paint and about the fees planned by this bill. Secretary Mitchell answered that paint is the challenge to children; that lead from ground sources are fairly well mitigated by the atmosphere and usually do not pose the same dangers. Barry Brooks, Director of the KDHE Lead-Based Abatement Program, indicated that Oklahoma, Missouri and Nebraska have similar fees that KDHE is contemplating. He indicated the suggested fee schedule is as follows (and are less than the amounts contemplated by EPA): Lead Inspector - \$200; Remedial Technician - \$300; Removal Workers - \$30; Project Designer (for major projects) - \$500; Project Workers Supervisor - \$150; Abatement Firm - \$200; Examination Fee - \$50. He stated the fees would be set through the state's rules and regulation process this summer if the bill is enacted.

Mr. Barry indicated that current law requires a disclaimer form concerning the possible presence of lead when houses are rented or sold. It does not mandate lead removal per se.

Representative Haley asked if there is a home test available for a homeowner or renter to determine the presence of lead. Mr. Baker answered there is a swab test available through hardware stores. The test is not recommended as there is a high incidence of false negative test results.

Emalene Correll asked if the anticipated fee for evaluation is for an abatement project or for the licensee. Mr. Barry stated KDHE is anticipating contracting with two individuals to oversee abatement projects.

There being no others present to testify on **Substitute for SB 437**, the hearing was closed.

Chairperson Mayans asked if the committee was ready to act on **Substitute for SB 437**.

Representative Powell moved that beginning on page 6, line 33, the word "an" and the following language through line 38 be stricken. Representative Morrison seconded the motion. Representative Powell indicated that by keeping the provision, as it is in the bill, a person subject to legal proceedings could be penalized before being determined guilty, later vindicated, and the penalty would have to be refunded. On call of the motion, the motion carried.

At Emalene Correll's suggestion, Representative Geringer moved that **Substitute for SB 437**, be amended on page 2, lines 19 and 24, to delete the words "project evaluation" and that the words "on site evaluations" be inserted in lieu thereof. Representative Horst seconded the motion. The motion carried.

Representative Geringer moved that **Substitute for SB 437** be passed as amended. Representative Wells seconded the motion. The motion carried. Representative Shultz will carry the bill on the floor of the House.

Chairperson Mayans then asked if the committee wanted to consider action on **SB 242** - Respiratory therapist licensure.

Norman Furse presented a balloon amendment to the bill (see Attachment 9) which reflects suggestions made at the time the committee heard the bill. He indicated the bill was introduced and passed late in last year's session. In the interim, several references and cites were changed and need to be reflected in this amendment. Most of the suggested changes are technical.

Representative Henry moved that the balloon amendment to **SB 242**, as set out in Attachment 9, be approved, and that the effective date be set at March 1, 1999. Representative Mayans seconded the motion. The motion carried.

Representative Geringer moved that **SB 242** be further amended by inserting the amendments set forth on Attachment 10, to include physical therapists licensure. Representative Storm seconded the motion. In discussing the motion, it was noted other amendments should be considered; however, Chairperson Mayans noted there currently is a movement in the Senate to have the issue of scope of practice of various medical practitioners studied during the interim. A call of the motion was made. The motion carried.

CONTINUATION PAGE

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S State Capitol at 1:30 p.m. on March 19, 1998

Chairperson Mayans noted Representative Flaharty's suggestion that further amendments are needed to clarify a sentence in **SB 242**. Consequently, Chairperson Mayans moved that **SB 242** be amended on page 4, line 25, by deleting the word "how" and inserting in its place "for"; and on line 26, by striking the words "that shall satisfy to be recognized" and inserting in their place "to obtain". Representative Morrison seconded the motion. The motion carried.

Representative Geringer moved that **SB 242** be passed as amended. Representative Toelkes seconded the motion. The motion carried. Representative Geringer will carry the bill on the floor of the House.

Chairperson Mayans noted that this was the last planned meeting of the committee, consequently he will approve the minutes of the meeting.

The meeting adjourned at 2:55 p.m.

HOUSE COMMITTEE ON
HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST
MARCH 19, 1998

NAME	REPRESENTING
<i>Sally Finney</i>	<i>Ko. Public Health Assn.</i>
<i>Jo Funk</i>	<i>Salina - Saline Co. Health Dept.</i>
<i>Jill Bowden</i>	<i>KCLPPP - KDHE</i>
<i>Cindy Singer</i>	<i>Lead Busters - K.C. Area Children's</i>
RICHARD A. BAKER	KANSAS LEAD COUNCIL - LENEXA
SAM UMSCHEN	LEAD BUSTERS, Wy. Po. Health
<i>Barry Brooks</i>	<i>KDHE / childhood Lead Poisoning</i>
<i>Ed Anderson</i>	<i>Kansas Respiratory Care Society</i>
<i>Steve Paige</i>	<i>KDHE</i>
KEITH R ANDRIS	CHRISTIAN SCIENCE COMM ON PUBLICATIONS KS
<i>Tom Bell</i>	<i>KHA</i>
<i>Rich Guthrie</i>	<i>Health Midwest</i>
<i>Janet Stubbs</i>	<i>KRT</i>
<i>Kristz Farney</i>	<i>Leadership Barber County</i>
<i>Carolyn Duwe</i>	<i>KDHE</i>
<i>David Rietm</i>	<i>KAM</i>
<i>Susan Anderson</i>	<i>Hein + Weir</i>
<i>Pat Ropp</i>	<i>Barber Co. Readership Op.</i>
<i>Larry Raasch</i>	<i>" " "</i>
<i>Ahrene Gesselin</i>	<i>" "</i>
STEVE KEARN	KPTA
<i>Michelle Peterson</i>	<i>PPAG</i>

K.A.S.
Advocacy Group
Preventi...



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Gary R. Mitchell, Secretary

Testimony presented to

The House Health and Human Services Committee

Thursday, March 19, 1998

by

Gary R. Mitchell
Secretary of Health and Environment

SUBSTITUTE for SENATE BILL 437

Mr. Chairman and members of the committee, thank you for the opportunity to appear before you today to discuss Substitute for Senate Bill 437.

SB 437 Addresses:

- ▶ Childhood lead poisoning prevention,
- ▶ Accreditation of training programs related to lead-based paint activities,
- ▶ Licensure and/or certification of individuals, business entities and public agencies who provide, engage in, or conduct lead-based paint activities.

PREVENTION

Centers for Disease Control and Prevention (CDC) Estimates

- ▶ 4.4% of children 6 months - 6 years have elevated levels of blood lead
- ▶ CDC estimate for Kansas = 10,600 children
- ▶ In 1996, Kansas identified 1,200 children with elevated levels of blood lead- 9,400 are estimated to have elevated levels of blood lead but not diagnosed or receiving care

Children ages 1-3 highest risk; major exposure due to dust in home contaminated by deteriorating lead-based paint. Lead paint in homes is major cause of childhood lead poisoning.

Consequences of Lead Poisoning in Children

- Adverse effects on learning, behavior and growth
- High levels can cause seizures, coma and death.

HOUSE HHS COMMITTEE
Attachment 2-1
3 - 19 - 98

Benefits of Prevention

- Avoided medical and special education costs
- Increased lifetime earnings
- Reduced infant mortality

ACCREDITATION and LICENSURE

Directed at meeting requirements of Section 402 of the Toxic Substances Control Act, as required by the Residential Lead-Based Paint Hazard Reduction Act of 1992 (administered by EPA).

Federal Law requires programs in place by August 31, 1998.

If Kansas does not have statutory authorities by that date, EPA will establish the program in Kansas. Fees and funding for lead program goes to neighboring states or returns to federal government. EPA's focus on compliance and enforcement of work practice standards- not comprehensive approach to prevent lead poisoning of children.

Section 1018 of the federal law: Joint EPA/HUD rules

- Requires disclosure of lead-based paint hazard by the seller or landlord of housing built prior to 1978, and the seller/landlord must provide pamphlet on possible hazards of lead-based paint.
- Provides a buyer the opportunity to have home inspected by qualified individual.
- Inspectors must be certified to make the lead-free determination.

Results

- Since Kansas does not currently have program to certify inspectors - buyers must hire inspector from another state, or one who has become certified in another state. Kansas is relying on certification programs in Missouri, Iowa, Nebraska, Oklahoma.
- Kansas has approximately 800,000 dwellings painted with lead-based paint.

EPA has federal grant funds available for states to establish licensing/accreditation programs.

- Kansas is in the first year of funding from EPA for lead poisoning prevention
- Eligibility will be lost if a licensure/certification/accreditation program is not authorized by August 31, 1998.

Kansas Lead Council

- Established by Secretary Mitchell June, 1997
- Formed to provide communication between KDHE, industry, EPA, Local Health Departments, and grass roots organizations representing the public.
- Council has met 4 times to discuss lead poisoning prevention in Kansas, and members provided input to Substitute for SB 437.

Role of Local Health Departments in Childhood Lead Poisoning

- Parent education,
- Blood screening,
- Medical Management
- Environmental Assessments

KDHE has had no funds available to support local activities for medical and environmental follow-up.

SUMMARY

Substitute for SB 437 would provide:

- Framework for more comprehensive statewide childhood lead poisoning prevention program,
- Licensing/Certification program directed at assuring qualified firms/individuals are available to perform lead abatement work.
- Kansas determined program, rather than one established by EPA.

Childhood lead poisoning will some day be a thing of the past. Until then, many children will benefit from a coordinated effort to reduce exposure to environmental lead. Substitute for SB 437 contains the tools to support that coordinated effort. This bill does contain a "Sunset" provision of 2003.

I appreciate your time today and your consideration of this bill. I would be pleased to answer any questions from the committee.



Kansas Public Health Association, Inc.

Affiliated with the American Public Health Association

701 SW Jackson Avenue, Suite 300

Topeka, Kansas 66603-3729

785-233-3103 Fax 785-233-3439

E-mail kpha@networksplus.net

Testimony on SB 437
Presented by Sally Finney
March 19, 1998

Representative Mayans and members of the House Committee on Health and Human Services, my name is Sally Finney. I am Executive Director of the Kansas Public Health Association. Thank you for the opportunity to appear before you this afternoon on behalf of Senate Bill 437.

Lead poisoning is one of the most pressing environmental problems facing children in the United States. The U.S. Agency for Toxic Substances and Disease Registry reports that one of every six children in the United States has high levels of lead in their blood. In 1994, the National Conference of State Legislatures released a report, "Lead Poisoning Prevention: A Guide for Legislators." That document cites the following facts about lead poisoning:

- ◆ blood lead levels of less than 10 micrograms/deciliter may cause decreased IQ and impair hearing and growth (page 1);
- ◆ increasingly higher blood lead levels cause increasingly more severe complications ranging from a reduction in production of hemoglobin, the chemical that carries oxygen to cells, to nervous system damage. It may, in the most serious cases, cause kidney damage and death (page 1); and
- ◆ children are more likely to be exposed to lead from exposure to lead-based paint than through any other source (page 2).

The pages noted above are attached for your reference.

Children are at greatest risk from lead exposures because their bodies absorb three to 10 times more lead than do the bodies of adults. Children are also at greater risk because they are more likely to have hand-to-mouth contact. A child who touches a lead-bearing object, like such as a window sill painted with lead-based paint, who then sucks his or her fingers is then exposed to lead. A child who picks up an object that has been in contact with a lead-bearing surface also will be exposed.

Childhood lead poisoning can impact future generations, because the body can store lead in bone tissue, sometimes for as long as 20 years. It is then released during times of stress, such as the kind that pregnancy causes. This means that a young girl exposed to lead who becomes pregnant

HOUSE HHS COMMITTEE
Attachment 3-1
3 - 19 - 98

as an adult can expose her unborn children to lead. Lead poisoning threatens rural, urban, and suburban communities, and it is entirely preventable.

According to the Centers for Disease Control and Prevention, blood lead levels have declined since the 1970's with the implementation of regulatory and voluntary bans enacted on the use of lead in gasoline, household paint, food and drink cans, and plumbing systems. However, threats to our children still exist because unsuspecting homeowners lack the proper education to contain those threats.

Why support SB 437?

- This bill promotes lead poisoning prevention without requiring homeowners to have inspections, risk assessments, or abatement.
- If homeowners choose to have such work done, it will assure that it will be completed by a quality, properly-trained work force.
- SB 437 provides for the kind of state-based childhood lead poisoning prevention activities that would make this education available where it is needed most.
- Its enactment opens the door for communities to apply for HUD grant funding for remediation of older homes of low income families.

In conclusion, I would like to close by saying that the Kansas Public Health Association supports the passage of SB 437.

Thank you for your time.

systems. Dust and soil contain the residues from all these major sources, and natural forces widely disperse dust contaminated by lead. No socioeconomic group, geographic area, or racial or ethnic population is free from lead.

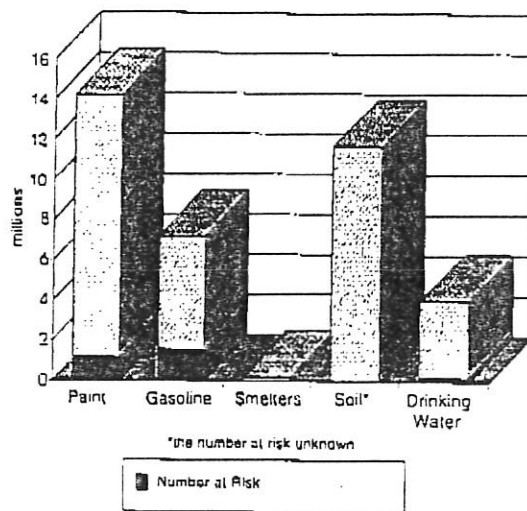
Effects on Children and Pregnant Women

When absorbed into the body, lead usually affects the central nervous system most severely (see figure 1). It is, therefore, particularly harmful even at low-levels to the developing brain and nervous system of young children, infants and fetuses.¹⁴ Children and infants are more likely than adults to be poisoned by lead because they have more hand-to-mouth activities and thereby ingest more lead-contaminated dusts and paints. Their bodies also are more likely to absorb the lead once ingested.¹⁵

Lead affects pregnant women by causing premature deliveries and lower birthweight and, in extreme cases, causing miscarriages and stillbirth. Research has indicated that low levels of lead in the blood harm a fetus' central nervous system, and the Centers for Disease Control and Prevention (CDC) believes it may have an adverse effect.¹⁶

Lead poisoning is measured by blood lead content: the number of micrograms of lead in a deciliter of blood ($\mu\text{g}/\text{dL}$). A microgram per deciliter is equivalent to four grains of salt placed in a swimming pool. Extreme levels in children, above $80 \mu\text{g}/\text{dL}$, can cause comas, convulsions, and death if not treated. Lower levels, between $25 \mu\text{g}/\text{dL}$ and $60 \mu\text{g}/\text{dL}$, cause adverse effects on the central nervous system, the kidneys, and blood-forming organs. At levels nearing $10 \mu\text{g}/\text{dL}$, lead decreases intelligence and impairs neurobehavioral development. Other effects linked to low blood lead levels include decreased height, impaired hearing, and an inability to stand upright.¹⁷

Figure 2
Number of Children Exposed to Lead via Various Media



Source: Agency for Toxic Substances and Disease Control (1988)

Sources and Reduction of Exposure

The three major sources of lead are lead-based paint, lead particles in dust and soils (mostly contaminated by lead in paints and gasoline), and lead in drinking water. Lead from smelters and other stationary sources, municipal waste and sewage sludge incinerators, and consumer products also contribute to lead into the environment (see figure 2).¹⁸

Lead-based paint. Lead in household paints is the most frequent cause of lead poisoning.²⁰ Although the sale and use of lead-based paint was banned in 1978,²¹ 4.9 million tons of lead were used in paints, and more than 57 million homes have lead-based paint.²² Nearly 10 million of these homes are occupied by families with children under seven, and almost four million of these homes have chipping and peeling paint that poses an immediate risk to children.²³ Many children from upper- and middle-income families are being exposed to lead paint and dust from home



1. THE NATURE AND EXTENT OF LEAD POISONING

Lead is a highly toxic metal that exists in paints, dust, and soils in and around homes in the United States. If ingested by humans lead disturbs virtually every system in the body and provides no physiological benefit. The most comprehensive study of blood lead levels, the Third National Health and Nutrition Examination Survey (NHANES), estimates 1.7 million children have blood lead levels at least 10 µg/dL or above.¹⁷

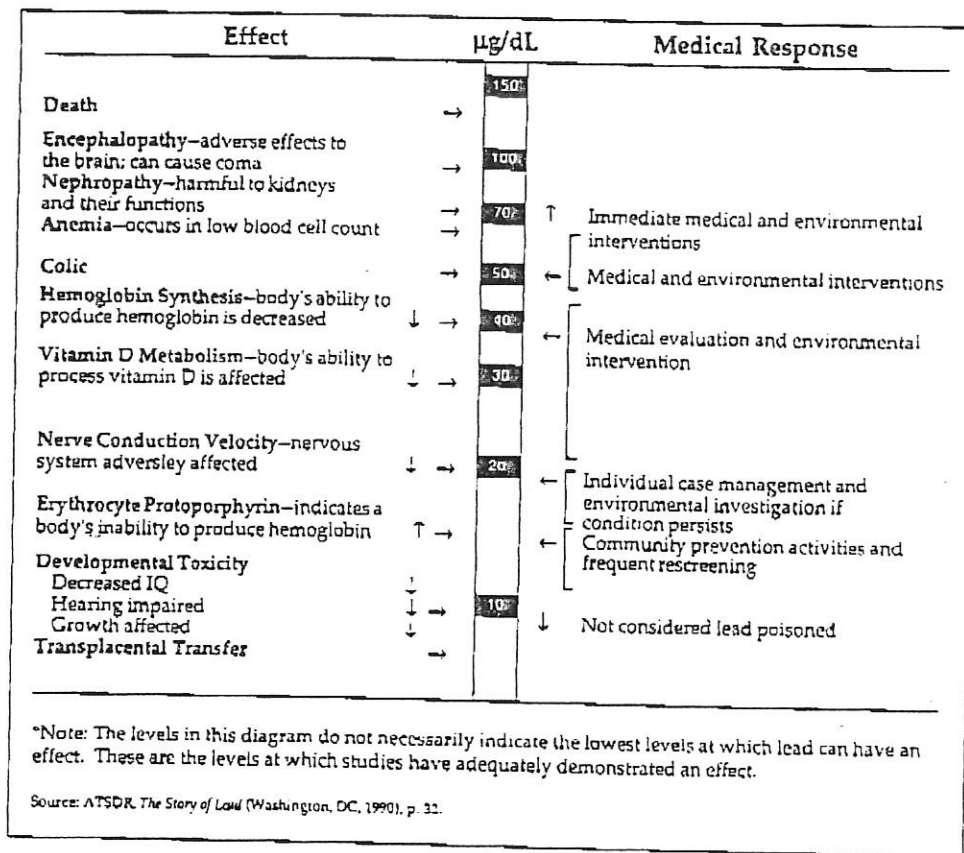
Characteristics of the Metal

Lead has unique properties that increase the severity of the problem. As an element, inorganic lead cannot be processed or de-

stroyed, nor can its chemical structure be changed. Lead also accumulates in the environment. Once released from its natural state it remains indefinitely, continually posing a threat for which there are no natural defenses.¹⁸

Before the industrial age, exposure to lead was rare. Industrialization, however, released massive amounts of lead into the environment. Lead was used extensively in paints and gasoline, emitted from smelters and factories, used in pipes and plumbing for water systems, as well as other consumer and industrial applications. Large amounts of lead remain in old paint and drinking water

Figure 1
Lead Levels in Blood That Cause Certain Effects in Children*



Testimony Presented to:

THE KANSAS HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

Thursday, March 19, 1998

By

Richard A. Baker

Substitute for Senate Bill 437

I. I am Chairman of the Kansas Lead Council

- A. The Kansas Lead Council (KLC) is dedicated towards the prevention of childhood lead poisoning in the state of Kansas. Our goal is to see an end to this 100% preventable insidious threat which has a major negative social and economic impact on an estimated 10,600 Kansas children. Lead poisoning is empirically proven to cause permanent and irreversible physiological and psychological damage to our children. The national Secretary for Health and Human Services calls lead poisoning "the number one health threat to our nation's children".
- B. KLC is made up entirely of volunteer citizens of the state of Kansas.
- C. KLC is comprised of many different organizations, agencies and groups within the state, which represent several thousand Kansas citizens. Example organizations, agencies and groups which are represented include; Kansas Association for Sanitarians, the Kansas Public Health Association, Kansas Health Institute, KU Medical Center, KDHE, Kansas Association of Realtors, Kansas Association of Local Health Departments, Kansas Bankers Association, the Prairie Band of Potawatomi, Kansas Association of Home Builders, Kickapoo Tribe in Kansas, the University of Kansas, Leadbusters, Inc. (a local non-profit childrens advocacy group), Kansas State University, Agency for Toxic Substances and Disease Registry, Kansas Medical Society, as well as others.
- D. KLC, as a whole, is in full support of Substitute for SB 437. We strongly encourage and urgently request the full support, endorsement and passage of Substitute for SB 437 by all Kansas Legislators.

II. I am the parent of a lead poisoned child and a former director of a Childhood Lead Poisoning Prevention Program

- A. I have personally witnessed what no person should ever have to witness; the emotional and physical trauma to the lead poisoned children and the degradation of the families of those lead poisoned children, where every day is a battle and every battle has a loser.

Substitute for SB 437 has several key components which will benefit the state of Kansas

- 1. It will establish a statewide Childhood Lead Poisoning Prevention Program. This program will provide for the screening of children to identify those children who have lead poisoning, as well as to provide a means for Kansas citizens to identify and remove the hazards of lead from their homes.

HOUSE HHS COMMITTEE
Attachment 4-1
3 - 19 - 98

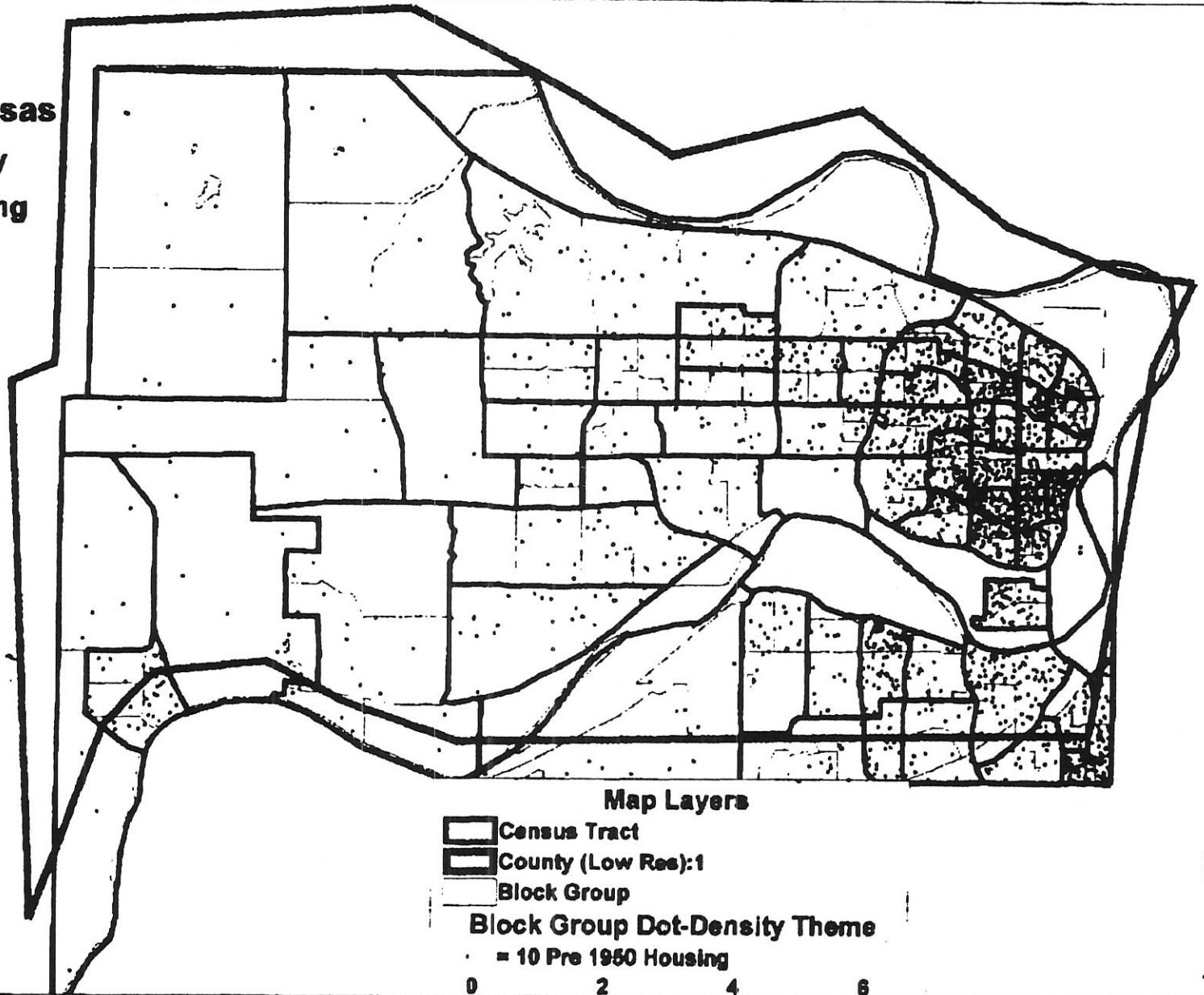
2. It will establish a state Lead Licensing and Accreditation program to license those persons involved in lead related activities, as well as licensing those who train persons involved in lead related activities. This program will ensure that the work of lead hazard detection and lead hazard control are performed by persons who are knowledgeable in the proper and cost effective techniques and procedures to prevent the insidious threat of lead poisoning, without exacerbating the problem. The licensing of training providers will ensure the competency of those providing the training.
3. The benefits of both of these programs are many;
 - a. By establishing a Childhood Lead Poisoning Prevention Program and having the mechanism in-place to license those people involved in lead related activities, the state of Kansas gains the value added benefit of being able to receive millions of dollars in federal funds from agencies such as HUD, EPA and the Federal Centers for Disease Control and Prevention (CDC).
 - b. By the Kansas legislature establishing the Lead Licensing and Accreditation program, EPA will not come into our state to run this program (which will happen if Substitute for SB 437 is not passed). Without a doubt, when EPA has the cause and the congressional mandate to run this program for the state of Kansas, there will be marked negative impacts:
 - Kansas will lose all EPA lead related funding currently coming to the state;
 - Kansas will lose the ability to receive literally millions of dollars in other federal funds which are directed towards protecting our state's children;
 - EPA will not have the best interest of the citizens of the state of Kansas, their task will be to simply develop and implement a congressionally mandated program; and,
 - EPA has indicated that they will most likely adopt the program of an adjoining state (Missouri) and make that adjoining state's program work for the state which refuses to pass the enabling legislation.
 - c. The passage of Substitute for Senate Bill 437 will empower and educate the citizens of the state of Kansas about how to identify and then to control lead hazards. The end result of this empowerment is that Kansas citizens will then be less reliant on state and federal resources. Empowerment is the key to arming all citizens with the knowledge and wherewithal to protect themselves and ultimately to put an end the deadly menace of childhood lead poisoning.
 - d. The most dramatic and most worthy benefit to the state of Kansas is that the numbers of cases of lead poisoned children will be decreased and ultimately eliminated, which will have an overall positive economic, moral and ethical impact on the entire state. We will have fulfilled our moral and ethical obligation to allow our state's children to live and mature in an environment which is free of environmental hazards. These hazards are known to adversely effect our children's ability to learn, it greatly reduces their IQ levels, it destroys their ability to be normal and socially interactive, it causes major behavioral problems which are a prelude to incarceration, and it eliminates their positive contributions to the state as normal, productive citizens. By our children being free of the ever present probability of being lead poisoned and by allowing them to experience the normal maturation process, as they must be allowed to do, we will see that our children will become the next generations brightest hope for the future of the State of Kansas.

Mr. Chairman and members of the committee, I implore you:

We must protect our children from irreparable harm, we must ensure our state's economic viability and we must ensure that Kansas programs are administered by Kansas people who have the best interest in and care about the State of Kansas;

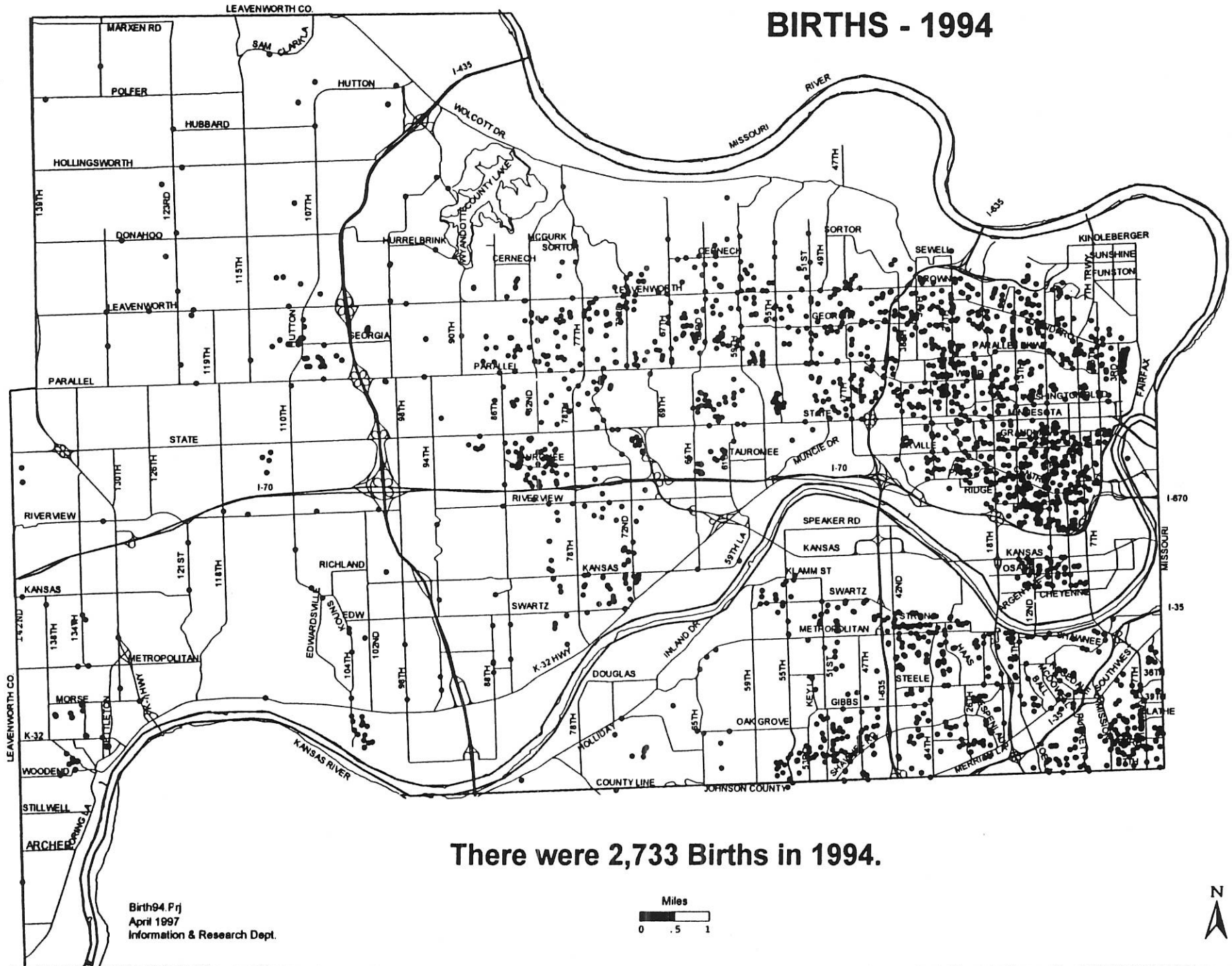
SUBSTITUTE FOR SENATE BILL 437 MUST BE PASSED!

Kansas City, Kansas
Wyandotte County
24,283 Pre 1950 Housing



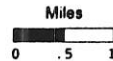
HOUSE HHS COMMITTEE
Attachment 5-1
3 - 19 - 98

WYANDOTTE COUNTY BIRTHS - 1994



There were 2,733 Births in 1994.

Birth94 Prj
April 1997
Information & Research Dept.



5-2

I am here, speaking in support of the substitute for Senate Bill 437, and doing so in 3 separate capacities — representing Kansas Association of Sanitarians, as co-chairman of the Kansas Lead Council, and as a local sanitarian from the Salina-Saline County Health Department.

Representing the Kansas Association of Sanitarians as a member and on the Executive Board, I would like to express support of this bill because of the impact and assistance it can have for Sanitarians across the state. Approximately 80% of all Risk Assessors trained in the State of Kansas are Sanitarians. Most of these operate on the local level, often in isolation and with no chance for additional training or education. Having a program at the state level will allow better access for Sanitarians to new information and necessary re-training. It can also provide the general coordination, support, and tracking necessary for a problem as wide-spread as lead contamination from lead-based paint.

As co-chairman of the Kansas Lead Council, I would again urge passage of the substitute for Senate Bill 437. Through discussion, debate and review, the Council offered input to the Secretary. One recommendation included the omission of local health departments from fees for certifying health department employees who were Risk Assessors. Most health departments would not have adequate funding to maintain certification and would have to drop that portion of the program for lack of funds. Input from the Council came from a variety of individuals, contractors, realtors, and related business operators.

Finally, as a Sanitarian in a local health department, I support this bill. I have worked with families of children with elevated blood levels (EBL's) for the past 5 years and I know the frustration of needing help with problems associated with the home lead investigations and having no one to turn to. While averaging 5 - 8 investigations a year, unusual situations are always occurring. In the past year we have had a contact resource at KDHE which has been extremely helpful. However, without this bill, we lose the funding (and ultimately the program) at the state level for the lead program that was just started. All control then leaves the state and will end up in EPA's hands. Fees for certification WILL have to be paid, and any problems at the local level will have to be called into the EPA's regional office — does anyone believe we will do that? Most of the questions or problems will just go unanswered. With state control of the program and coordination at that level, more children will be served and with better results. At the Salina-Saline County Health Department, we were contacted by 4 surrounding counties for assistance with lead investigations before the current state support was available. We were not able to help because of time and travel limitations and workload. If the current level of staff and assistance can be retained through the passage of this bill, local health departments would benefit from it.

Thank you for your time and attention. Are there any questions?

HOUSE HHS COMMITTEE
Attachment 6
3 - 19 - 98



**TESTIMONY TO THE HEALTH AND HUMAN SERVICES COMMITTEE
3-19-98**

Debbie Nickels, RN., C. Administrator/Health Officer Jefferson County Health Department

Mr. Chairman and Committee members,

I regret that I was unable come before you today in person to provide testimony on behalf of the members of the **Kansas Association of Local Health Departments** who support a Childhood Lead Poisoning Prevention Program for Kansas through SB 437. I have asked Sally Finney Executive Director for the Kansas Public Health Association to read this testimony on behalf of local health departments

Attached is a copy of our issue paper that the Kansas Association of Local Health Department's board voted on in May of 1997. Also attached are letters from just a few of my peers who wrote to Senator Praeger in support of SB 437.

In our discussions with Secretary Mitchell we assured him of our commitment to assist with this most needed public health program for Kansas children. We understand that there are still many issues that need to be addressed including adequate resources for both the state and local health departments to efficiently and effectively add this comprehensive program to our already fiscally stressed infrastructure. Those few lead environmental assessments local health departments have been involved in are labor intensive, and require extensive case management services to educate and assist families in seeking appropriate medical treatment and follow up, developmental evaluations, home re-mediation, and/or new housing.

The Association did request of the KDHE lead committee that environmental assessment license/certification and training fees be waived for local health departments, and that those individuals across the state who have met the training requirements be "grandfathered" into the program. We understand that these requests were inadvertently left out of the legislation. We have communicated these concerns with Secretary Mitchell, and we hope that he will address these issues through the rules and regulation implementation process.

I wish to reiterate that the benefits of preventing lead exposure for children and fetuses has been extensively studied by the Centers for Disease Control. The quantified benefits are:

- ▶ Reduced Medical Costs
- ▶ Reduced Special Education costs
- ▶ Increased Future Productivity
- ▶ Reduced Infant Mortality

The weight of the evidence clearly supports that decrements in children's cognition are evident at blood lead levels well below 25 micrograms/deciliter. Let me point out that lead exposure can be a by-product of poverty, and a contributor to the cycle that perpetuates and deepens the state of being poor.

By adopting a Childhood Lead Poisoning Prevention Program for Kansans, we can decrease lifetime health and education costs, and have a win-win situation. Thank you for your consideration to this legislation.

KANSAS ASSOCIATION
OF LOCAL HEALTH
DEPARTMENTS

P.O. Box 780406
WICHITA, KANSAS

67278-0406

PHONE: 316 • 684 • 0624

FAX: 316 • 684 • 2182

HOUSE HHS COMMITTEE
Attachment 7-1
3 - 19 - 98

KANSAS ASSOCIATION of LOCAL HEALTH DEPARTMENTS

FY 1999 Issue Paper Lead Program

I. Issue Definition

Childhood lead poisoning resulting from environment exposure is estimated by the Centers for Disease Control (CDC) to affect 4.4%¹ of children ages six months to six years. Contrary to the national findings of childhood lead poisoning being a urban inter-city problem, in Kansas childhood lead poisoning is four times higher in rural areas than for urban areas; urban - 126.0 per 100,000, rural 510.3 per 100,000². Preliminary test data shows that as many as 15% (35,000) of Kansas children may have blood lead levels above the action level of 10 mcg/dL³.

Addressing this issue requires a statewide comprehensive lead program consisting of public and professional education, lead screening, case management, medical management and environmental assessment.

II. Background

Lead poisoning is one of the most common and preventable pediatric health problems today. Lead is a highly toxic metal, producing a range of adverse health effects, particularly in children and fetuses. Effects include nervous and reproductive system disorders, delays in neurological and physical development, cognitive and behavioral changes and hypertension.

Data indicates significant adverse effects of lead exposure in children at blood lead levels previously believed to be safe. Some adverse effects have been documented at blood lead levels at least as low as 10 micrograms per deciliter (mcg/dL) of whole blood.

Most lead poisoned children do not appear to be sick. There are usually no symptoms unless a child is severely poisoned. Therefore, elimination of lead hazards before children are poisoned must receive more emphasis.

Lead poisoning is widespread. No socioeconomic group, geographic area or ethnic population is spared. Children ages six to 72 months are most at risk. Preliminary test data shows that many children are subject to adverse health effects from lead poisoning.

The risk to Kansas children is great. Risk factors include: living near lead-based industrial facilities or having a family member employed in such a facility, hobbies with lead exposure such as stained glass, living in older houses where lead solder was used in the plumbing and exposure to lead-based paint. Lead-based paints were widely used and applied to homes constructed prior to 1978.

The greatest risk factor is deteriorated lead based paint. The U.S. Environmental Protection Agency (EPA) in 1995 estimated approximately 64 million housing units (half the nation's entire housing stock) are affected by lead-based paint. Twenty million of these homes have paint in hazardous condition which could affect 3.8 million children under age six years.

The focus of lead poisoning prevention should be lead-based paint. Since treatment of houses following the appearance of a child who has been lead poisoned fails to realize the benefits of primary prevention, strategies should be developed to educate occupants and reduce exposure risks before the children are affected.

Lead-contaminated soil is also a source of lead exposure. Lead-based paint, gasoline, industrial sources, mining sites and smelters have contributed significantly to the contamination of soil. In 1985, the EPA reduced the amount of lead in gasoline which accounted for a profound reduction of lead emissions to the environment. Next to lead-based paint, soil and dust are believed to be the most important source of lead exposure to children.

In December of 1996, EPA and HUD jointly passed regulation requiring disclosure of known lead-based paint and/or lead-based paint hazards by persons selling or leasing housing constructed before the phase-out of residential lead-based paint use in 1978. However, this only requires disclosure. Reduction of sources of environmental lead exposures is not formally addressed in Kansas.

III. Recommendations

It is recommended that KDHE in collaboration with local health departments develop and implement a statewide Childhood Lead Poisoning Prevention Program. It is recommended that funding be made available to local health departments for blood lead screening, public and professional education, case management, nutritional intervention and environmental lead assessments.

There will need to be adequate resources, staffing and operating funds to perform childhood blood level screenings in addition to performing tests on field samples collected during the environmental assessments.

IV. Legislative Implications

KDHE has the authority, granted by K.S.A. 65-101, to implement a lead exposure reduction program including lead screening, public and professional information, case management and consultation regarding medical and environmental management.

¹ *Alliance to End childhood Lead Poisoning*, Special Edition March, 1997

² *Reportable Diseases in Kansas 1995 Summary*, Kansas Department of Health and Environment, Office of Epidemiologic Services

³ Kansas Department of Health and Environment

Approved by the Board of Directors 05-20-97



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

785/233-8638 * FAX 785/233-5222
www.nursingworld.org/snas/ks

the Voice of Nursing in Kansas

Debbie Folkerts, A.R.N.P.--C.
President

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

For More information contact:

Terri Roberts, JD,RN
Executive Director
700 SW Jackson, Suite 601
Topeka, KS 66603
785.233.8638

March 19, 1998

SENATE BILL 437: CHILDHOOD LEAD POISONING

Chairman Mayans and members of the House Committee on Health and Human Services:

Childhood lead poisoning resulting from environmental exposure is estimated by the Centers for Disease Control (CDC) to affect 4.4% of children ages six months to six years. In Kansas, childhood lead poisoning is four times higher in rural areas than for urban areas:

Urban: 126.0 poisonings per 100,000 persons

Rural: 510.3 poisonings per 100,000 persons

Preliminary test data shows that as many as 15% or 35,000 Kansas children may have blood lead levels above the action level of 10 mcg/dl.

Lead poisoning is one of the most common and preventable pediatric health problems today. Lead is a highly toxic metal, producing a range of adverse health effects, particularly in children and fetuses. Effects include nervous and reproductive system disorders, delays in neurologic and physical development, cognitive and behavioral changes and hypertension. Most lead poisoned children do not appear to be sick. There are usually no symptoms unless a child is severely poisoned.

The risk to Kansas children is great. Risk factors include: living near lead-based industrial facilities or having a family member employed in such a facility, living in older houses where lead solder was used in the plumbing and exposure to lead-based paint. Lead-based paints were widely used and applied to homes constructed prior to 1978. The greatest risk factor is the deterioration of lead based paint as it chips, flakes and becomes aerosolized.

KSNA supports passage of SB 437. It will allow Kansas to continue to receive federal dollars to support existing efforts in education of the public and of health professional, for continued blood lead screening, and in the data collection across the state. This bill allows Kansas to retain control over its lead abatement efforts, versus the federal government from mandating and taking control. Passage of SB 437 will also allow the state to seek additional funds to help address the problem of environmental exposure to lead in the home through enhanced training of home owners and building professionals, in addition to the concerted effort that is required by the by the local health departments to conduct blood lead screening activities.

We encourage you to favorably pass SB 437. Thank you.

HOUSE HHS COMMITTEE
Attachment 8
3 - 19 - 98

SENATE BILL No. 242

By Committee on Public Health and Welfare

2-10

10 AN ACT concerning respiratory therapy; relating to licensure; amending
11 K.S.A. 39-952, 40-12a01, ~~65-4921~~, 65-5502, 65-5503, 65-5504, 65-
12 5505, 65-5506, 65-5507, ~~65-5508, 65-5509~~, 65-5510, 65-5511, 65-5512,
13 and 65-5514 and 65-5516 K.S.A. ~~[1996]~~ Supp. 40-3103, ~~65-4116~~, 65-
14 4915, ~~74-4916~~ and 74-4960a and repealing the existing sections.
15

65-4116,

1997

65-5508, 65-5509,

16 Be it enacted by the Legislature of the State of Kansas:
17 Section 1. K.S.A. 65-5502 is hereby amended to read as follows: 65-
18 5502. As used in K.S.A. 65-5501 to 65-5517, inclusive and amendments
19 thereto:

- 20 (a) "Board" means the state board of healing arts.
- 21 (b) "Respiratory therapy" is a health care profession whose practi-
22 tioners are employed therapists practice under the supervision of a qual-
23 ified medical director and with the prescription of a licensed physician
24 in the providing therapy, management, rehabilitation, diagnostic evalua-
25 tion respiratory assessment and care of patients with deficiencies and
26 abnormalities which affect the pulmonary system and associated aspects
27 of cardiopulmonary and other systems functions; and includes. The duties
28 which may be performed in any clinic, hospital, skilled nursing facility,
29 outpatient setting and private dwelling, by a respiratory therapist in-
30 clude: but are not limited to: all of the following:
- 31 (1) Direct and indirect pulmonary care respiratory therapy services
32 that are safe, aseptic, preventative and restorative to the patient.
- 33 (2) Direct and indirect respiratory care therapy services, including
34 but not limited to, the administration of pharmacological and diagnostic
35 and therapeutic agents related to respiratory care therapy procedures
36 necessary to implement a treatment, disease prevention; or pulmonary
37 rehabilitative or diagnostic regimen prescribed by a physician.
- 38 (3) Observation and monitoring of signs and symptoms; general be-
39 havior; general physical response to respiratory care treatment and di-
40 agnostic testing; determination of whether such signs, symptoms, reac-
41 tions; behavior or general response exhibit abnormal characteristics and
implementation based on observed abnormalities of appropriate report-
ing or referral or respiratory care protocols; or changes in treatment reg-

Sections Amended in 1997
 65-5508 L. 1997, ch. 26 temporary permits
 65-5509 L. 1997, ch. 94 fees
 65-4915 L. 1997, ch. 149 peer review

Additional
 40-3401 specifically exclude RTs

HOUSE HHS COMMITTEE
 Attachment 9-1
 3-19-98

1 imen; pursuant to a prescription by a physician on the initiation of emer-
2 gency procedures.

3 (4) The diagnostic and therapeutic use of any of the following, in
4 accordance with the prescription of a physician: Administration of medical
5 gases, exclusive of general anesthesia; aerosols; humidification; and en-
6 vironmental control systems and baromedical therapy; pharmacologic;
7 transcription.

8 (4) Transcription and implementation of written or verbal orders of
9 a physician pertaining to the practice of respiratory care; the implemen-
10 tation therapy.

11 (5) Implementation of respiratory care therapy protocols as de-
12 fined by the medical staff of the an institution; or a qualified medical
13 director or other written protocol, changes in treatment pursuant to
14 the written or verbal orders of a physician or the initiation of emergency
15 procedures under the regulations of the board or as otherwise permitted
16 in this act. The administration of pharmacological agents related to res-
17 piratory care procedures; mechanical or, physiological, ventilatory or cir-
18 culatory support; bronchopulmonary hygiene; cardiopulmonary resuse-
19 ation; maintenance of the natural airways; insertion and maintenance of
20 indwelling arterial catheters and maintenance of artificial airways with-
21 out cutting tissues and maintenance of artificial airways; diagnostic and
22 testing techniques required for implementation of respiratory care pro-
23 tocols; collection of specimens of blood; collection of specimens from the
24 respiratory tract; analysis of blood gases and respiratory secretions; and
25 electrolytes; and collection and analysis of electrophysiological data as
26 authorized by written protocols.

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

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

31 (d) "Person" means any individual, partnership, unincorporated or-
32 ganization or corporation.

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

35 (f) "Qualified medical director" means the medical director of any
36 inpatient or outpatient respiratory care therapy service, department or
37 home care agency. The medical director shall be a physician who has
38 interest and knowledge in the diagnosis and treatment of respiratory
39 problems. This physician shall be responsible for the quality, safety and
40 appropriateness of the respiratory services provided and require that res-
41 piratory care therapy be ordered by a physician who has medical re-
42 sponsibility for the patient. The medical director shall be readily accessible
43 to the respiratory care therapy practitioner.

9-3

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

4 Sec. 3. K.S.A. 65-5504 is hereby amended to read as follows: 65-
5 5504. (a) There is established a respiratory ~~therapist care~~ council to advise
6 the board in carrying out the provisions of this act. The council shall
7 consist of ~~five seven~~ members, all citizens and residents of the state of
8 Kansas appointed as follows: One member shall be a physician appointed
9 by the state board of healing arts; one member shall be the president of
10 the state board of healing arts or a person designated by the president;
11 *two members shall be from the public sector who are not engaged, directly*
12 *or indirectly, in the provision of health services and shall be appointed*
13 *by the governor for a term of two years;* and three members shall be
14 respiratory therapists appointed by the governor. The governor, insofar
15 as possible, shall appoint persons from different geographical areas and
16 persons who represent various types of respiratory therapy ~~treatment~~
17 *practice*. If a vacancy occurs on the council, the appointing authority of
18 the position which has become vacant shall appoint a person of like qual-
19 ifications to fill the vacant position for the unexpired term, if any. The
20 Kansas respiratory ~~therapy care~~ society shall recommend the names of
21 respiratory therapists to the governor in a number equal to at least twice
22 the positions or vacancies to be filled, and the governor may appoint
23 members to fill the positions or vacancies from the submitted list. The
24 *terms of the members of the council appointed by the governor prior to*
25 *the effective date of this act shall expire on July 1, 1988.* Members of the
26 council appointed by the governor on and after the effective date of this
27 act shall be appointed for terms of three years and until their successors
28 are appointed and qualified except that of the members first appointed
29 by the governor on or after the effective date of this act one shall be
30 appointed for a term of one year, one shall be appointed for a term of
31 two years and one shall be appointed for a term of three years, as des-
32 ignated by the governor, *except that members appointed from the*
33 *public sector shall be appointed for terms of two years and until*
34 *their successors are appointed.* The member appointed by the state
35 board of healing arts shall serve at the pleasure of the state board of
36 healing arts. A member designated by the president of the state board of
37 healing arts shall serve at the pleasure of the president.

appointed by the governor

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

42 Sec. 4. K.S.A. 65-5505 is hereby amended to read as follows: 65-
43 5505. The board shall pass upon the qualifications of all applicants for

1 examination and ~~registration licensure~~, provide for and conduct all ex-
 2 aminations, determine the applicants who successfully pass the exami-
 3 nation, duly ~~register license~~ such applicants and adopt rules and regula-
 4 tions as may be necessary to administer the provisions of this act. The
 5 board shall keep a record of all proceedings under this act and a roster
 6 of all individuals ~~registered licensed~~ under this act. Only an individual
 7 may be ~~registered licensed~~ under this act.

8 Sec. 5. K.S.A. 65-5506 is hereby amended to read as follows: 65-
 9 5506. (a) An applicant applying for ~~registration licensure~~ as a respiratory
 10 therapist shall file a written application on forms provided by the board,
 11 showing to the satisfaction of the board that the applicant meets the
 12 following requirements:

13 (1) Education: The applicant shall present evidence satisfactory to the
 14 board of having successfully completed ~~the academic requirements~~ of an
 15 educational program in respiratory therapy ~~recognized approved~~ by the
 16 board.

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

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

22 (4) (3) Fees: The applicants shall pay to the board all applicable fees
 23 established under K.S.A. 65-5509 and amendments thereto.

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

40 Sec. 6. K.S.A. 65-5507 is hereby amended to read as follows: 65-
 41 5507. (a) Each applicant for ~~registration licensure~~ under this act shall be
 42 examined by a written examination ~~required chosen~~ by the board to test
 43 the applicant's knowledge of the basic and clinical sciences relating to

1 respiratory therapy, and respiratory *care therapy* theory and practice,
 2 including the applicant's professional skills and judgment in the utilization
 3 of respiratory therapy techniques and methods, and such other subjects
 4 as the board may deem useful to determine the applicant's fitness to
 5 practice.

6 (b) Applicants for registration licensure shall be examined at a time
 7 and place and under such supervision as the board may determine. Ex-
 8 aminations shall be given at least twice each year at such places within
 9 this state as the board may determine and the board shall give or cause
 10 to be given reasonable public notice of such examinations at least 60 days
 11 prior to their administration.

12 (c) Applicants may obtain their examination scores.

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

25 (b) The board may waive the examination, education or experience
 26 requirements and grant registration licensure to any applicant who pres-
 27 ents proof of current licensure or registration as a respiratory therapist in
 28 another state, the District of Columbia or territory of the United States
 29 which requires standards for licensure or registration determined by the
 30 board to be equivalent to or exceed the requirements for registration
 31 licensure under this act.

32 (e) (b) At the time of making an application under this section, the
 33 applicant shall pay to the board the application fee as required under
 34 K.S.A. 65-5509 and amendments thereto.

35 (d) (c) The board may issue a special permit to a student enrolled in
 36 an approved school of respiratory therapy who applies for such special
 37 permit on a form provided by the board and who pays to the board the
 38 special permit fee as required under K.S.A. 65-5509 and amendments
 39 thereto. The special permit shall authorize a student who is enrolled in
 40 an approved school of respiratory therapy and who holds such special
 41 permit to practice respiratory therapy under the supervision of a regis-
 42 tered respiratory therapist. Such special permit shall expire on the date
 43 that the student graduates from an approved school of respiratory therapy

9-5
 Delete and replace with 65-5508 as amended in
 1997 session + the SB242 amendments.

9-6

1 ~~or otherwise ceases to be enrolled in an approved school of respiratory~~
2 ~~therapy.~~

3 ~~(e) (d) The board may issue a temporary registration license to an~~
4 ~~applicant for registration licensure as a respiratory therapist who applies~~
5 ~~for temporary registration licensure on a form provided by the board, who~~
6 ~~meets the requirements for registration licensure or who meets all of the~~
7 ~~requirements for registration licensure except examination and who pays,~~
8 ~~to the board the temporary registration licensing fee as required under~~
9 ~~K.S.A. 65-5509 and amendments thereto. Such temporary registration~~
10 ~~licensure shall expire one year from the date of issue or on the date that~~
11 ~~the board approves the application for registration licensure, whichever~~
12 ~~occurs first. No more than one such temporary registration license shall~~
13 ~~be permitted to any one person, without the majority approval of the~~
14 ~~members of the board.~~

Replace with current section.

15 ~~(f) The board may waive the examination and education requirements~~
16 ~~and issue a license to individuals who have not taken and passed a licen-~~
17 ~~sure exam administered or approved by the board, yet were registered by~~
18 ~~the board under the previous act as a respiratory therapist, providing~~
19 ~~these individuals have been registered by the board and employed as~~
20 ~~respiratory therapists since the inception of the initial registration act in~~
21 ~~1987.~~

22 ~~(e) A person registered to practice respiratory therapy on Feb-~~
23 ~~ruary 28, 1998, shall be deemed to be licensed to practice respira-~~
24 ~~tory therapy under this act, and such person shall not be required~~
25 ~~to file an original application for licensure under this act. Any ap-~~
26 ~~plication for registration filed but which has not been granted prior~~
27 ~~to March 1, 1998, shall be processed as an application for licensure~~
28 ~~under this act.]~~

Date needs to be keyed to effective date, see p. 27.

29 ~~[Sec. 8. K.S.A. 65-5509 is hereby amended to read as follows: 65-~~
30 ~~5509. (a) The board shall charge and collect in advance fees provided for~~
31 ~~in this act as fixed by the board by rules and regulations, subject to the~~
32 ~~following limitations:~~

Delete and replace with 65-5509 as amended in 1997 session + the SB242 amendments.

33	Application fee, not more than.....	\$40
34	Temporary registration licensing fee, not more than.....	40
35	Special permit fee, not more than.....	40
36	Registration License renewal fee, not more than.....	40
37	Registration License late renewal fee, not more than.....	40
38	Registration License reinstatement fee, not more than.....	40
39	Certified copy of registration license, not more than.....	20

40 ~~(b) The board shall charge and collect in advance fees for any ex-~~
41 ~~amination administered by the board under the respiratory therapy prac-~~
42 ~~tice act as fixed by the board by rules and regulations in an amount equal~~
43 ~~to the cost to the board of the examination. If the examination is not~~

1 administered by the board, the board may require that fees paid for any
 2 examination under the respiratory therapy practice act be paid directly to
 3 the examination service by the person taking the examination.

4 Sec. 9. K.S.A. 65-5510 is hereby amended to read as follows: 65-
 5 5510. (a) The board may deny, refuse to renew, suspend or revoke a
 6 ~~registration license~~ where the ~~registrant licensee~~ or applicant for ~~registra-~~
 7 ~~tion licensure~~ has been guilty of unprofessional conduct which has en-
 8 dangered or is likely to endanger the health, welfare or safety of the
 9 public. Unprofessional conduct includes:

10 (1) Obtaining a ~~registration license~~ by means of fraud, misrepresen-
 11 tation or concealment of material facts;

12 (2) being guilty of unprofessional conduct as defined by rules and
 13 regulations adopted by the board;

14 (3) being convicted of a felony if the acts for which such person was
 15 convicted are found by the board to have a direct bearing on whether
 16 such person should be entrusted to serve the public in the capacity of a
 17 respiratory therapist;

18 (4) violating any lawful order or rule and regulation of the board; and

19 (5) violating any provision of this act.

20 (b) Such denial, refusal to renew, suspension or revocation of a ~~reg-~~
 21 ~~istration license~~ may be ordered by the board after notice and hearing on
 22 the matter in accordance with the provisions of the Kansas administrative
 23 procedure act. Upon the end of the period of time established by the
 24 board for the revocation of a ~~registration license~~, application may be made
 25 to the board for reinstatement. The board shall have discretion to accept
 26 or reject an application for reinstatement and may hold a hearing to con-
 27 sider such reinstatement. An application for reinstatement shall be ac-
 28 companied by the ~~registration licensing~~ reinstatement fee established un-
 29 der K.S.A. 65-5509 and amendments thereto.

30 Sec. 10. K.S.A. 65-5511 is hereby amended to read as follows: 65-
 31 5511. Foreign trained respiratory therapists shall satisfy the examination
 32 requirements of K.S.A. 65-5506 and amendments thereto. The board shall
 33 require foreign trained applicants to furnish proof of completion of ed-
 34 ucational and supervised field work requirements, substantially equal to
 35 or greater than those contained in K.S.A. 65-5506 and amendments
 36 thereto prior to taking the examination.

37 Sec. 11. K.S.A. 65-5512 is hereby amended to read as follows: 65-
 38 5512. (a) ~~Registrations Licenses~~ issued under this act shall be effective
 39 for a period of one year and shall expire at the end of such period of time
 40 unless renewed in the manner prescribed by the board, upon the payment
 41 of the ~~registration license~~ renewal fee established under K.S.A. 65-5509
 42 and amendments thereto. The board may establish additional require-
 43 ments for ~~registration license~~ renewal which provide evidence of contin-

8-6

1 ued competency. The board may provide for the late renewal of a reg-
2 istration license upon the payment of a late fee established under K.S.A.
3 65-5509 and amendments thereto, but no such late renewal of a registra-
4 tion license may be granted more than five years after its expiration.

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

11 Sec. 12. K.S.A. 65-5514 is hereby amended to read as follows: 65-
12 5514. (a) On and after July 1, 1987 1998, it shall be unlawful for any
13 person who is not registered licensed under this act as a respiratory ther-
14 apist or whose registration license has been suspended or revoked to use,
15 in connection with such person's name or place of business, hold them-
16 selves out to the public as a licensed respiratory therapist, or use the
17 abbreviation of CRTT, RRT, RCP or the words "respiratory therapist,"
18 "respiratory therapist registered," "respiratory care practitioner" or, "in-
19 halation therapist" or any other words, letters, abbreviations or insignia
20 indicating or implying that such person is a respiratory therapist, or who
21 in any way, orally, in writing, in print or by sign, directly or by implication,
22 represents oneself as a respiratory therapist to practice the art and science
23 of respiratory therapy as herein defined. A violation of this subsection
24 (a) shall constitute a class B misdemeanor.

25 (b) The respiratory therapy practice act recognizes the existence of
26 overlapping functions between health care providers. Therefore, nothing
27 Nothing in this act is intended to limit, preclude or otherwise interfere
28 with the practices of other health care providers formally trained and
29 licensed, registered, credentialed or certified by appropriate agencies of
30 the state of Kansas. The practice of respiratory therapy shall not be con-
31 strued to include the following individuals:

32 (1) Persons rendering gratuitous services assistance in the case of an
33 emergency.

34 (2) Members of any church practicing their religious tenets provided
35 they shall not be exempt from complying with all public health regulations
36 of the state.

37 (3) Persons whose services are performed via pursuant to the dele-
38 gation of and under the supervision of a respiratory therapist who is
39 licensed under this act.

40 (4) Healthcare providers in the United States armed forces, public
41 health services, federal facilities and coast guard or other military serv-
42 ice when acting in the line of duty in this state.

43 (5) Medical practitioners licensed Licensees under the Healing Arts

This date needs to be the same as the effective date of the bill.

1 Act healing arts act, and practicing their professions, when licensed and
 2 practicing in accordance with the provisions of the Kansas Statutes, or
 3 amendments thereto; law or persons performing services pursuant to the
 4 delegation of a licensed physician under subsection (g) of K.S.A. 65-2872
 5 and amendments thereto; and any interpretation thereof by the supreme
 6 court of this state.

7 (6) Dentists practicing their professions, when licensed and practicing
 8 in accordance with the provisions of the Kansas Statutes Annotated, and
 9 amendments thereto; and any interpretation thereof by the supreme court
 10 of this state law.

11 (7) Nurses practicing their professions, when licensed and practicing
 12 in accordance with the provisions of the Kansas nurse practice act, and
 13 amendments thereto; law or persons performing services pursuant to the
 14 delegation of a licensed nurse under subsection (m) of K.S.A. 65-1124 and
 15 amendments thereto; and any interpretation thereof by the supreme court
 16 of this state.

17 (8) Health care providers who have been formally trained and have
 18 passed a credentialing or certification examination and are practicing in
 19 accordance with the training and provisions of their respective creden-
 20 tialing organization or have received specific training in one or more
 21 functions included in this act pursuant to established educational proto-
 22 cols or both.

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

26 (10) Self-care by a patient or gratuitous care by a friend or
 27 family member who does not represent or hold out to the public to
 28 be a respiratory therapist.

29 (11) Monitoring, installation or delivery of medical devices,
 30 gases and equipment and the maintenance thereof by a nonlicensed
 31 person for the express purpose of self-care by a patient or gratuitous
 32 care by a friend or family member.

33 (c) Durable medical equipment companies may deliver and set-up
 34 respiratory equipment pursuant to a written prescription by a physician.
 35 Any instructions to the patient or client regarding the clinical use of said
 36 equipment; any patient monitoring, assessment or other procedures de-
 37 signed to evaluate the effectiveness of prescribed respiratory therapy
 38 must be performed by or via pursuant to the delegation of a licensed
 39 respiratory therapist or other health care provider formally trained and
 40 licensed or otherwise credentialed by appropriate agencies of the state of
 Kansas.

41 (d) Any violation of this section shall constitute a class C B misde-
 42 meanor.
 43

1 (e) (d) Nothing in this act shall be construed to permit the practice
 2 of medicine and surgery. No statute granting authority to licensees
 3 of the state board of healing arts shall be construed to confer au-
 4 thority upon respiratory therapists to engage in any activity not
 5 conferred by this act.

6 Sec. 13. K.S.A. 65-5516 is hereby amended to read as follows: 65-
 7 5516. All state agency adjudicative proceedings under K.S.A. 65-5501 to
 8 65-5517, inclusive, shall be conducted in accordance with the provisions
 9 of the Kansas administrative procedure act and shall be reviewable in
 10 accordance with the act for judicial review and civil enforcement of
 11 agency actions.

12 Sec. 13. K.S.A. 39-952 is hereby amended to read as follows:
 13 39-952. The secretary of health and environment or the secretary's
 14 designee shall not issue a correction order to a person licensed to
 15 operate an adult care home because of a violation of a provision of
 16 article 9 of chapter 39 of the Kansas Statutes Annotated or a rule
 17 and regulation adopted thereunder which was caused by any person
 18 licensed by the state board of healing arts to practice a branch of the
 19 healing arts if such person licensed by the state board of healing arts
 20 is not an owner, operator or employee of the adult care home and
 21 if the person licensed to operate the adult care home shows that he
 22 or she such person has exercised reasonable diligence in notifying
 23 such the person licensed by the state board of healing arts to practice
 24 a branch of the healing arts of his or her such person's duty to the
 25 residents of the adult care home.

26 Sec. 14. K.S.A. 40-12a01 is hereby amended to read as follows:
 27 40-12a01. As used in this act: (a) "Health care provider" means any
 28 person licensed to practice any branch of the healing art arts by the
 29 board of healing arts or any hospital licensed under the provisions
 30 of K.S.A. 65-425 et seq., and amendments thereto, or a private psy-
 31 chiatric hospital authorized under K.S.A. 75-3307b and amend-
 32 ments thereto;

33 (b) "person" means an individual, corporation, partnership, as-
 34 sociation, joint stock company, trust, unincorporated organization
 35 or any similar entity;

36 (c) "affiliate" means a person that directly or indirectly,
 37 through one or more intermediaries, employs, controls or is con-
 38 trolled by, or is under common control with a health care provider;

39 (d) "commissioner" means the commissioner of insurance; and

40 (e) "association" means any organization whose income is ex-
 41 empt from taxation pursuant to section 501(a) of the internal rev-
 42 enue code of 1986, and amendments thereto, as in effect on the
 43 effective date of this act, due to such association's compliance with

1997

11-9

1 section 501(c)(6) of such code, and amendments thereto, as in effect
2 on the effective date of this act.

3 Sec. 15. K.S.A. ~~1996~~ Supp. 40-3103 is hereby amended to read
4 as follows: 40-3103. As used in this act, the following words and
5 phrases shall have the meanings respectively ascribed to them
6 herein:

7 (a) "Commissioner" means the state commissioner of insurance.

8 (b) "Disability benefits" means allowances for loss of monthly
9 earnings due to an injured person's inability to engage in available
10 and appropriate gainful activity, subject to the following conditions
11 and limitations: (1) The injury sustained is the proximate cause of
12 the injured person's inability to engage in available and appropri-
13 ate gainful activity; (2) subject to the maximum benefits stated
14 herein, allowances shall equal 100% of any such loss per individual,
15 unless such allowances are deemed not includable in gross income
16 for federal income tax purposes, in which event such allowances
17 shall be limited to 85%; and (3) allowances shall be made up to a
18 maximum of not less than \$900 per month for not to exceed one year
19 after the date the injured person becomes unable to engage in avail-
20 able and appropriate gainful activity.

21 (c) "Director" means the director of vehicles.

22 (d) "Funeral benefits" means allowances for funeral, burial or
23 cremation expenses in an amount not to exceed \$2,000 per individ-
24 ual.

25 (e) "Highway" means the entire width between the boundary
26 lines of every way publicly maintained, when any part thereof is
27 open to the use of the public for purposes of vehicular travel.

28 (f) "Implement of husbandry" means every vehicle designed or
29 adapted and used exclusively for agricultural operations and only
30 incidentally operated or moved upon the highways.

31 (g) "Insurer" means any insurance company, as defined by
32 K.S.A. 40-201, and amendments thereto, authorized to transact
33 business in this state, which issues policies of motor vehicle liability
34 insurance covering liability arising out of the ownership, operation,
35 maintenance or use of a motor vehicle.

36 (h) "Injured person" means any person suffering injury.

37 (i) "Injury" means bodily harm, sickness, disease or death re-
38 sulting from an accident arising out of the ownership, maintenance
39 or use of a motor vehicle.

40 (j) "Lienholder" means a person holding a security interest in
41 a vehicle.

42 (k) "Medical benefits" means and includes allowances for all
43 reasonable expenses, up to a limit of not less than \$4,500, for nec-

1 *essary health care rendered by practitioners licensed by the state*
2 *board of healing arts to practice any branch of the healing arts or*
3 *licensed psychologists, surgical, x-ray and dental services, including*
4 *prosthetic devices and necessary ambulance, hospital and nursing*
5 *services; and such term also includes allowances for services rec-*
6 *ognized and permitted under the laws of this state for an injured*
7 *person who relies upon spiritual means through prayer alone for*
8 *healing in accordance with such person's religious beliefs.*

9 (l) *"Monthly earnings" means: (1) In the case of a regularly em-*
10 *ployed person or a person regularly self-employed, 1/12 of the annual*
11 *earnings at the time of injury; or (2) in the case of a person not*
12 *regularly employed or self-employed, or of an unemployed person,*
13 *1/12 of the anticipated annual earnings from the time such person*
14 *would reasonably have been expected to be regularly employed. In*
15 *calculating the anticipated annual earnings of an unemployed per-*
16 *son who has previously been employed, the insurer shall average*
17 *the annual compensation of such person for not to exceed five years*
18 *preceding the year of injury or death, during which such person*
19 *was employed.*

20 (m) *"Motor vehicle" means every self-propelled vehicle of a*
21 *kind required to be registered in this state, including any trailer,*
22 *semitrailer or pole trailer designed for use with such vehicle, but*
23 *such term does not include a motorized bicycle.*

24 (n) *"Operator" means any person who drives or is in actual*
25 *physical control of a motor vehicle upon a highway or who is ex-*
26 *ercising control over or steering a vehicle being towed by a motor*
27 *vehicle.*

28 (o) *"Owner" means a person, other than a lienholder, having*
29 *property in or title to a motor vehicle, including a person who is*
30 *entitled to the use and possession of a motor vehicle subject to a*
31 *security interest held by another person, but such term does not*
32 *include a lessee under a lease not intended as security.*

33 (p) *"Person" means an individual, partnership, corporation or*
34 *other association of persons.*

35 (q) *"Personal injury protection benefits" means the disability*
36 *benefits, funeral benefits, medical benefits, rehabilitation benefits,*
37 *substitution benefits and survivors' benefits required to be provided*
38 *in motor vehicle liability insurance policies pursuant to this act.*

39 (r) *"Rehabilitation benefits" means allowances for all reason-*
40 *able expenses, up to a limit of not less than \$4,500, for necessary*
41 *psychiatric or psychological services, occupational therapy and*
42 *such occupational training and retraining as may be reasonably*
43 *necessary to enable the injured person to obtain suitable employ-*

ent.

3 (s) "Relative residing in the same household" means a relative
4 of any degree by blood, marriage or adoption, who usually makes
5 such person's home in the same family unit, whether or not tem-
porarily living elsewhere.

6 (t) "Security interest" means an interest in a vehicle reserved
7 or created by agreement and which secures payment or perform-
8 ance of an obligation. The term includes the interest of a lessor
9 under a lease intended as security.

10 (u) "Self-insurer" means any person effecting self-insurance
11 pursuant to subsection (f) of K.S.A. 40-3104, and amendments
12 thereto, or any nonresident self-insurer that has filed the form pre-
13 scribed in subsection (b) of K.S.A. 40-3106, and amendments
14 thereto.

15 (v) "Special mobile equipment" means every vehicle not de-
16 signed or used primarily for the transportation of persons or prop-
17 erty and only incidentally operated or moved over a highway, in-
18 cluding but not limited to: Ditch-digging apparatus, well-boring
19 apparatus and road construction and maintenance machinery such
20 as asphalt spreaders, bituminous mixers, bucket loaders, tractors
21 other than truck tractors, ditchers, leveling graders, finishing ma-
22 chines, motor graders, road rollers, scarifiers, earth moving carry-
23 alls and scrapers, power shovels and drag lines and self-propelled
24 cranes and earth moving equipment. The term does not include
25 house trailers, dump trucks, truck mounted transit mixers, cranes
26 or shovels or other vehicles designed for the transportation of per-
27 sons or property to which machinery has been attached.

28 (w) "Substitution benefits" means allowances for appropriate
29 and reasonable expenses incurred in obtaining other ordinary and
30 necessary services in lieu of those that, but for the injury, the in-
31 jured person would have performed for the benefit of such person
32 or such person's family, subject to a maximum of \$25 per day for
33 not longer than 365 days after the date such expenses are incurred.

34 (x) "Survivor" means a decedent's spouse, or child under the
35 age of 18 years, where death of the decedent resulted from an injury.

36 (y) "Survivors' benefits" means total allowances to all survivors
37 for: (1) Loss of an injured person's monthly earnings after such
38 person's death, up to a maximum of not less than \$900 per month;
39 and (2) substitution benefits following the injured person's death.
40 Expenses of the survivors which have been avoided by reason of the
41 injured person's death shall be subtracted from the allowances to
which survivors would otherwise be entitled, and survivors' benefits
shall not be paid for more than one year after the injured person's

9-14

1 death, less the number of months the injured person received disa-
 2 bility benefits prior to such person's death. For purposes of this
 3 subsection, monthly earnings shall include, in the case of a person
 4 who was a social security recipient or a retirement or pension ben-
 5 efit recipient, or both, at the time of such injured person's death,
 6 $\frac{1}{12}$ of the annual amount of the difference between the annual
 7 amount of the social security benefits or the retirement benefits, or
 8 both, that such injured person was receiving at the time of such
 9 injured person's death and the annual amount of the social security
 10 benefits or the retirement benefits, or both, that the survivor is re-
 11 ceiving after the time of such injured person's death.

12 (z) "Uninsured motor vehicle" means any motor vehicle which
 13 is not included under an approved self-insurance plan of a self-
 14 insurer or for which there is not in effect a motor vehicle liability
 15 insurance policy meeting the requirements of this act.

16 (aa) "Any workmen's compensation law" means the workmen's
 17 compensation act of Kansas, the United States longshoremen's and
 18 harbor workers' compensation act, the federal employer liability
 19 acts, and any similar state or federal law.

20 Sec. 16. K.S.A. ~~[1996 Supp.]~~ 65-4116 is hereby amended to read
 21 as follows: 65-4116. (a) Every person who manufactures, distributes
 22 or dispenses any controlled substance within this state or who pro-
 23 poses to engage in the manufacture, distribution or dispensing of
 24 any controlled substance within this state shall obtain annually a
 25 registration issued by the board in accordance with the uniform
 26 controlled substances act and with rules and regulations adopted
 27 by the board.

28 (b) Persons registered by the board under this act to manufac-
 29 ture, distribute, dispense or conduct research with controlled sub-
 30 stances may possess, manufacture, distribute, dispense or conduct
 31 research with those substances to the extent authorized by their
 32 registration and in conformity with the other provisions of this act.

33 (c) The following persons need not register and may lawfully
 34 possess controlled substances under this act, as specified in this sub-
 35 section:

36 (1) An agent or employee of any registered manufacturer, dis-
 37 tributor or dispenser of any controlled substance if the agent or
 38 employee is acting in the usual course of such agent or employee's
 39 business or employment;

40 (2) a common or contract carrier or warehouseman or an em-
 41 ployee thereof whose possession of any controlled substance is in
 42 the usual course of business or employment;

43 (3) an ultimate user or a person in possession of any controlled

Delete Supp. Reference

substance pursuant to a lawful order of a practitioner or in lawful possession of a schedule V substance;

(4) persons licensed and registered by the board under the provisions of the acts contained in article 16 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, to manufacture, dispense or distribute drugs are considered to be in compliance with the registration provision of the uniform controlled substances act without additional proceedings before the board or the payment of additional fees, except that manufacturers and distributors shall complete and file the application form required under the uniform controlled substances act;

(5) any person licensed by the state board of healing arts;

(6) any person licensed by the state board of veterinary examiners;

(7) any person licensed by the Kansas dental board; and

(8) any person who is a member of the Native American Church, with respect to use or possession of peyote, whose use or possession of peyote is in, or for use in, bona fide religious ceremonies of the Native American Church, but nothing in this paragraph shall authorize the use or possession of peyote in any place used for the confinement or housing of persons arrested, charged or convicted of criminal offenses or in the state security hospital.

(d) The board may waive by rules and regulations the requirement for registration of certain manufacturers, distributors or dispensers if the board finds it consistent with the public health and safety, except that licensure of any person by the state board of healing arts to practice any branch of the healing arts, Kansas dental board or the state board of veterinary examiners shall constitute compliance with the registration requirements of the uniform controlled substances act by such person for such person's place of professional practice. Evidence of abuse as determined by the board relating to a person licensed by the state board of healing arts shall be submitted to the state board of healing arts and the attorney general within 60 days. The state board of healing arts shall, within 60 days, make findings of fact and take such action against such person as it deems necessary. All findings of fact and any action taken shall be reported by the state board of healing arts to the board of pharmacy and the attorney general. Evidence of abuse as determined by the board relating to a person licensed by the state board of veterinary examiners shall be submitted to the state board of veterinary examiners and the attorney general within 60 days.

The state board of veterinary examiners shall, within 60 days, make findings of fact and take such action against such person as it deems

under the Kansas healing arts act

9-15

9-16

1 *necessary. All findings of fact and any action taken shall be reported*
 2 *by the state board of veterinary examiners to the board of pharmacy*
 3 *and the attorney general. Evidence of abuse as determined by the*
 4 *board relating to a dentist licensed by the Kansas dental board shall*
 5 *be submitted to the Kansas dental board and the attorney general*
 6 *within 60 days. The Kansas dental board shall, within 60 days, make*
 7 *findings of fact and take such action against such dentist as it deems*
 8 *necessary. All findings of fact and any action taken shall be reported*
 9 *by the Kansas dental board to the board of pharmacy and the at-*
 10 *torney general.*

11 *(e) A separate annual registration is required at each place of*
 12 *business or professional practice where the applicant manufactures,*
 13 *distributes or dispenses controlled substances.*

14 *(f) The board may inspect the establishment of a registrant or*
 15 *applicant for registration in accordance with the board's rules and*
 16 *regulations.*

17 *(g) (1) The registration of any person or location shall termi-*
 18 *nate when such person or authorized representative of a location*
 19 *dies, ceases legal existence, discontinues business or professional*
 20 *practice or changes the location as shown on the certificate of reg-*
 21 *istration. Any registrant who ceases legal existence, discontinues*
 22 *business or professional practice, or changes location as shown on*
 23 *the certificate of registration, shall notify the board promptly of*
 24 *such fact and forthwith deliver the certificate of registration di-*
 25 *rectly to the secretary or executive secretary of the board. In the*
 26 *event of a change in name or mailing address the person or author-*
 27 *ized representative of the location shall notify the board promptly*
 28 *in advance of the effective date of this change by filing the change*
 29 *of name or mailing address with the board. This change shall be*
 30 *noted on the original application on file with the board.*

31 *(2) No registration or any authority conferred thereby shall be*
 32 *assigned or otherwise transferred except upon such conditions as*
 33 *the board may specifically designate and then only pursuant to the*
 34 *written consent of the board.*

35 ~~*[Sec. 17. K.S.A. 1996 Supp. 65-4915 is hereby amended to read*~~
 36 ~~*as follows: 65-4915. (a) As used in this section:*~~

37 ~~*(1) "Health care provider" means: (A) Those persons and enti-*~~
 38 ~~*ties defined as a health care provider under K.S.A. 40-3401 and*~~
 39 ~~*amendments thereto; and (B) a dentist licensed by the Kansas dental*~~
 40 ~~*board, a dental hygienist licensed by the Kansas dental board, a*~~
 41 ~~*professional nurse licensed by the board of nursing, a practical*~~
 42 ~~*nurse licensed by the board of nursing, a mental health technician*~~
 43 ~~*licensed by the board of nursing, a physical therapist assistant or*~~

Delete and replace with 65-4915 as amended in
 1997 session + the SB242 amendments.

Replace with current section.

9-17

2 ~~ified by the state board of healing arts, an occupational therapist~~
3 ~~registered by the state board of healing arts, an occupational ther-~~
4 ~~apy assistant registered by the state board of healing arts, a respi-~~
5 ~~ratory therapist registered licensed by the state board of healing arts,~~
6 ~~a physician's assistant registered by the state board of healing arts~~
7 ~~and attendants and ambulance services certified by the emergency~~
8 ~~medical services board.~~

8 (2) ~~"Health care provider group" means:~~

9 (A) ~~A state or local association of health care providers;~~

10 (B) ~~the board of governors created under K.S.A. 40-3403 and~~
11 ~~amendments thereto;~~

12 (C) ~~an organization of health care providers formed pursuant~~
13 ~~to state or federal law and authorized to evaluate medical and~~
14 ~~health care services;~~

15 (D) ~~a review committee operating pursuant to K.S.A. 65-2840b~~
16 ~~through 65-2840d, and amendments thereto;~~

17 (E) ~~an organized medical staff of a licensed medical care facility~~
18 ~~as defined by K.S.A. 65-425 and amendments thereto, an organized~~
19 ~~medical staff of a private psychiatric hospital licensed under K.S.A.~~
20 ~~75-3307b and amendments thereto or an organized medical staff of~~
21 ~~a state psychiatric hospital or state institution for the mentally re-~~
22 ~~tarded, as follows: Larned state hospital, Osawatomie state hospital,~~
23 ~~Rainbow mental health facility, Topeka state hospital, Kansas neu-~~
24 ~~rological institute, Norton state hospital, Parsons state hospital and~~
25 ~~training center and Winfield state hospital and training center;~~

26 (F) ~~a health care provider;~~

27 (G) ~~a professional society of health care providers or one or~~
28 ~~more committees thereof;~~

29 (H) ~~a Kansas corporation whose stockholders or members are~~
30 ~~health care providers or an association of health care providers,~~
31 ~~which corporation evaluates medical and health care services; or~~

32 (I) ~~an insurance company, health maintenance organization or~~
33 ~~administrator of a health benefits plan which engages in any of the~~
34 ~~functions defined as peer review under this section.~~

35 (3) ~~"Peer review" means any of the following functions:~~

36 (A) ~~Evaluate and improve the quality of health care services~~
37 ~~rendered by health care providers;~~

38 (B) ~~determine that health services rendered were professionally~~
39 ~~indicated or were performed in compliance with the applicable~~
40 ~~standard of care;~~

41 (C) ~~determine that the cost of health care rendered was consid-~~
42 ~~ered reasonable by the providers of professional health services in~~
43 ~~this area;]~~

Replace with current section.

8-18

- 1 ~~[(D) evaluate the qualifications, competence and performance of~~
 2 ~~the providers of health care or to act upon matters relating to the~~
 3 ~~discipline of any individual provider of health care;~~
 4 ~~(E) reduce morbidity or mortality;~~
 5 ~~(F) establish and enforce guidelines designed to keep within rea-~~
 6 ~~sonable bounds the cost of health care;~~
 7 ~~(G) conduct of research;~~
 8 ~~(H) determine if a hospital's facilities are being properly util-~~
 9 ~~ized;~~
 10 ~~(I) supervise, discipline, admit, determine privileges or control~~
 11 ~~members of a hospital's medical staff;~~
 12 ~~(J) review the professional qualifications or activities of health~~
 13 ~~care providers;~~
 14 ~~(K) evaluate the quantity, quality and timeliness of health care~~
 15 ~~services rendered to patients in the facility;~~
 16 ~~(L) evaluate, review or improve methods, procedures or treat-~~
 17 ~~ments being utilized by the medical care facility or by health care~~
 18 ~~providers in a facility rendering health care.~~
 19 ~~(4) "Peer review officer or committee" means:~~
 20 ~~(A) An individual employed, designated or appointed by, or a~~
 21 ~~committee of or employed, designated or appointed by, a health~~
 22 ~~care provider group and authorized to perform peer review; or~~
 23 ~~(B) a health care provider monitoring the delivery of health~~
 24 ~~care at correctional institutions under the jurisdiction of the sec-~~
 25 ~~retary of corrections.~~
 26 ~~(b) Except as provided by K.S.A. 60-437 and amendments~~
 27 ~~thereto and by subsections (c) and (d), the reports, statements, mem-~~
 28 ~~oranda, proceedings, findings and other records of peer review com-~~
 29 ~~mittees or officers shall be privileged and shall not be subject to~~
 30 ~~discovery, subpoena or other means of legal compulsion for their~~
 31 ~~release to any person or entity or be admissible in evidence in any~~
 32 ~~judicial or administrative proceeding. Information contained in~~
 33 ~~such records shall not be discoverable or admissible at trial in the~~
 34 ~~form of testimony by an individual who participated in the peer~~
 35 ~~review process. This privilege may be claimed by the legal entity~~
 36 ~~creating the peer review committee or officer, or by the commis-~~
 37 ~~sioner of insurance for any records or proceedings of the board of~~
 38 ~~governors.~~
 39 ~~(c) Subsection (b) shall not apply to proceedings in which a~~
 40 ~~health care provider contests the revocation, denial, restriction or~~
 41 ~~termination of staff privileges or the license, registration, certifi-~~
 42 ~~cation or other authorization to practice of the health care provider.~~
 43 ~~(d) Nothing in this section shall limit the authority, which may~~

Replace with current section.

9-19

2 otherwise be provided by law, of the commissioner of insurance, the
 3 state board of healing arts or other health care provider licensing
 4 or disciplinary boards of this state to require a peer review com-
 5 mittee or officer to report to it any disciplinary action or recom-
 6 mendation of such committee or officer; to transfer to it records of
 7 such committee's or officer's proceedings or actions to restrict or
 8 revoke the license, registration, certification or other authorization
 9 to practice of a health care provider; or to terminate the liability of
 10 the fund for all claims against a specific health care provider for
 11 damages for death or personal injury pursuant to subsection (i) of
 12 K.S.A. 40-3403 and amendments thereto. Reports and records so
 13 furnished shall not be subject to discovery, subpoena or other
 14 means of legal compulsion for their release to any person or entity
 15 and shall not be admissible in evidence in any judicial or adminis-
 16 trative proceeding other than a disciplinary proceeding by the state
 17 board of healing arts or other health care provider licensing or dis-
 18 ciplinary boards of this state.

18 (e) A peer review committee or officer may report to and discuss
 19 its activities, information and findings to other peer review com-
 20 mittees or officers or to a board of directors or an administrative
 21 officer of a health care provider without waiver of the privilege
 22 provided by subsection (b) and the records of all such committees
 23 or officers relating to such report shall be privileged as provided
 24 by subsection (b).

25 (f) Nothing in this section shall be construed to prevent an in-
 26 sured from obtaining information pertaining to payment of benefits
 27 under a contract with an insurance company, a health maintenance
 28 organization or an administrator of a health benefits plan.

29 Sec. 18. K.S.A. 65-4921 is hereby amended to read as follows:
 30 65-4921. As used in K.S.A. 65-4921 through 65-4930, and amend-
 31 ments thereto:

32 (a) "Appropriate licensing agency" means the agency that is-
 33 sued the license to the individual or health care provider who is the
 34 subject of a report under this act.

35 (b) "Department" means the department of health and environ-
 36 ment.

37 (c) "Health care provider" means: (1) Those persons and enti-
 38 ties defined as a health care provider under K.S.A. 40-3401 and
 39 amendments thereto; and (2) a dentist licensed by the Kansas dental
 40 board, a dental hygienist licensed by the Kansas dental board, a
 41 professional nurse licensed by the board of nursing, a practical
 42 nurse licensed by the board of nursing, a mental health technician
 43 licensed by the board of nursing, a physical therapist assistant cer-

9-20

1 *tified by the state board of healing arts, an occupational therapist*
2 *registered by the state board of healing arts, an occupational ther-*
3 *apy assistant registered by the state board of healing arts and a*
4 *respiratory therapist registered licensed by the state board of healing*
5 *arts.*

6 (d) "License," "licensee" and "licensing" include comparable
7 terms which relate to regulation similar to licensure, such as reg-
8 istration.

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

18 (f) "Reportable incident" means an act by a health care pro-
19 vider which: (1) Is or may be below the applicable standard of care
20 and has a reasonable probability of causing injury to a patient; or
21 (2) may be grounds for disciplinary action by the appropriate li-
22 censing agency.

23 (g) "Risk manager" means the individual designated by a med-
24 ical care facility to administer its internal risk management pro-
25 gram and to receive reports of reportable incidents within the fa-
26 cility.

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

28 Sec. 19. K.S.A. ~~1996~~ Supp. 74-4916 is hereby amended to read
29 as follows: 74-4916. (1) Upon the death of a member before retire-
30 ment, the member's accumulated contributions shall be paid to the
31 member's beneficiary.

32 (2) (a) In the event that a member dies before retirement as a
33 result of an accident arising out of and in the course of the member's
34 actual performance of duty in the employ of a participating em-
35 ployer independent of all other causes and not as a result of a will-
36 fully negligent or intentional act of the member, an accidental death
37 benefit shall be payable if: (A) A report of the accident, in a form
38 acceptable to the board, is filed in the office of the executive sec-
39 retary of the board within 60 days after the date of the accident
40 causing such death and an application for such benefit, in such form
41 and manner as the board shall prescribe, is filed in the office of the
42 executive secretary of the board within two years of the date of the
43 accident, but the board may waive such time limits for a reasonable

1997

2 period if in the judgment of the board the failure to meet these limits
3 was due to lack of knowledge or incapacity; and (B) the board finds
4 from such evidence as it may require, to be submitted in such form
5 and manner as it shall prescribe, that the natural and proximate
6 cause of death was the result of an accident arising out of and in
7 the course of the member's employment with a participating em-
8 ployer independent of all other causes at a definite time and place.
9 Such accidental death benefit shall be a lump-sum amount of
10 \$50,000 and an annual amount of $\frac{1}{2}$ of the member's final average
11 salary which shall accrue from the first day of the month following
12 the date of death and which shall be payable in monthly install-
13 ments or as the board may direct, but, after June 30, 1982, in no
14 case shall the accidental death benefit be less than \$100 per month.
15 The accidental death benefit payments shall be paid to the surviving
16 spouse of such deceased member, such payments to continue so long
17 as such surviving spouse lives or if there is no surviving spouse, or
18 in the case the spouse dies before the youngest child of such de-
19 ceased member attains age 18 or before the youngest child of such
20 deceased member attains age 23 years, if such child is a full-time
21 student as provided in K.S.A. 74-49,117 and amendments thereto or
22 if there are one or more children of the member who are totally
23 disabled and dependent on the member or spouse, then to the child
24 or children of such member under age 18 or under age 23, if such
25 child or children are full-time students as provided in K.S.A. 74-
26 49,117 and amendments thereto and to the child or children of the
27 member who are totally disabled and dependent on the member or
28 spouse, divided in such manner as the board in its discretion shall
29 determine, to continue until the youngest surviving child dies or
30 attains age 18 or attains age 23 if such child is a full-time student
31 as provided in K.S.A. 79-49,117 and amendments thereto or, in the
32 case of the child or children who are totally disabled and dependent
33 on the member or spouse, until death or until no longer totally dis-
34 abled, or if there is no surviving spouse or child eligible for acci-
35 dental death benefits under this subsection (2) at the time of the
36 member's death, then to the parent or parents of such member who
37 are dependent on such member, to continue until the last such par-
38 ent dies. All payments due under this subsection (2) to a minor shall
39 be made to a legally appointed conservator of such minor or totally
40 disabled child as provided in subsection (7) of K.S.A. 74-4902 and
41 amendments thereto. Commencing on the effective date of this act,
42 any surviving spouse, who was receiving benefits pursuant to this
43 section and who had such benefits terminated by reason of such
spouse's remarriage, shall be entitled to once again receive benefits

1 pursuant to this section, except that such surviving spouse shall not
2 be entitled to recover any benefits not received after the termination
3 of benefits by reason of such surviving spouse's remarriage but be-
4 fore the effective date of this act.

5 (b) In construction of this section of the act there shall be no
6 presumption that the death of the member was the result of an ac-
7 cident nor shall there be a liberal interpretation of the law or evi-
8 dence in favor of the person claiming under this subsection (2). In
9 the event of the death of a member resulting from a heart, circula-
10 tory or respiratory condition there must be clear and precise evi-
11 dence that death was the result of an accident independent of all
12 other causes which arose out of and in the course of the member's
13 actual performance of duties in the employ of a participating em-
14 ployer.

15 (c) The annual benefit under this subsection (2) shall be re-
16 duced by any workers compensation benefit payable. If the workers
17 compensation benefit is paid in a lump sum, the amount of such
18 reduction shall be calculated on a monthly basis over the period of
19 time for which workers compensation benefits would have been
20 payable had such lump sum not been paid. For any recipient al-
21 ready in receipt of such benefits on the effective date of this act, no
22 change in the original reduction for workers compensation benefits
23 shall be applicable to benefits paid prior to July 1, 1994. In the
24 event that a member should die as a result of an accident as de-
25 scribed in this subsection (2), all elections or options previously
26 made by the deceased member shall become void and of no effect
27 whatsoever and the retirement system shall be liable only for the
28 accidental death benefit, refund of accumulated contributions as
29 described in subsection (1) and any insured death benefit that may
30 be due. The benefit payable under this subsection (2) shall be
31 known and referred to as the "accidental death benefit."

32 (3) (a) Upon the application of a member, or the member's ap-
33 pointing authority acting for the member, a member who is in the
34 employ of a participating employer and becomes totally and per-
35 manently disabled for duty in the employ of a participating em-
36 ployer, by reason of an accident which occurred prior to July 1,
37 1975, may be retired by the board if, (A) the board finds the total
38 and permanent disability to be the natural and proximate result of
39 an accident causing personal injury or disease independent of all
40 other causes and arising out of and in the course of the member's
41 actual performance of duties as an employee of a participating em-
42 ployer; and (B) a report of the accident, in a form acceptable to the
43 board is filed in the office of the executive secretary of the board

2 within 200 days after the date of the accident causing such injury;
3 and (C) such application for retirement under this provision, in
4 such form and manner as shall be prescribed by the board, is filed
5 in the office of the executive secretary of the board within two years
6 of the date of the accident; and (D) after a medical examination of
7 the member has been made by or under the direction of a medical
8 physician or physicians or any other practitioner holding a valid
9 license to practice a branch of the healing arts issued by the Kansas
10 state board of healing arts designated by the board and the medical
11 physician or physicians or any other practitioner holding a valid
12 license to practice a branch of the healing arts issued by the Kansas
13 state board of healing arts report in writing to the board that the
14 member is physically or mentally totally disabled for duty in the
15 employ of a participating employer and that such disability will
16 probably be permanent; and (E) the board finds that the member
17 became permanently and totally disabled on a date certain based
18 on the evidence furnished and the professional guidance obtained
19 and that such disability was not the result of a willfully negligent
20 or intentional act of the member. If the board shall so retire the
21 applicant, the member shall receive annually an accidental total
22 disability benefit equal to $\frac{1}{2}$ of the member's final average salary
23 which shall accrue from the first day of the month following the
24 date of such accidental total and permanent disability as found by
25 the board payable in monthly installments or as the board may
26 direct.

27 (b) In construction of this subsection (3) there shall be no pre-
28 sumption that the disability of the member was the result of an
29 accident nor shall there be a liberal interpretation of the law or
30 evidence in favor of the member claiming under this subsection (3).
31 In the event of the disability of a member resulting from a heart,
32 circulatory or respiratory condition there must be clear and precise
33 evidence that disability was the result of an accident independent
34 of all other causes which arose out of and in the course of the mem-
35 ber's actual performance of duties in the employ of a participating
36 employer.

37 (c) A member will continue to receive such accidental total dis-
38 ability benefit so long as the member is wholly and continuously
39 disabled by such injury and prevented thereby from engaging in
40 any gainful occupation or employment for which the member is
41 reasonably qualified by reason of education, training or experience.
42 The accidental loss of both hands by actual severance through or
43 above the wrist joint, or the accidental loss of both feet by actual
44 severance through or above the ankle joint or the entire and irre-

9-24

1 coverable accidental loss of sight of both eyes, or such severance of
2 one hand and one foot, and such severance of one hand or one foot
3 and such loss of sight of one eye, shall be deemed accidental total
4 and permanent disability and accidental total disability benefits
5 shall be paid so long as the member lives.

6 (d) Any retirant retired by reason of such accidental total and
7 permanent disability who has been receiving benefits under the pro-
8 visions of this subsection (3) for a period of five years shall be
9 deemed finally retired and shall not be subject to further medical
10 examinations, except that if the board of trustees has reasonable
11 grounds to question whether the retirant remains totally and per-
12 manently disabled, a further medical examination or examinations
13 may be required. Refusal or neglect to submit to examination shall
14 be sufficient cause for suspending or discontinuing the accidental
15 total disability benefit. If the refusal or neglect continues for a pe-
16 riod of one year, all of the member's rights with respect to such
17 accidental total disability benefit may be revoked by the board.

18 (e) In the event that a retirant who is receiving an accidental
19 total disability benefit dies within five years after the date of the
20 retirant's retirement, an accidental death benefit shall then be pay-
21 able as provided in subsection (2) of this section.

22 (f) A member who retires under the provisions of this subsection
23 (3) shall receive such benefits as provided in this subsection (3) in
24 lieu of all other retirement benefits provided under the retirement
25 system except that no member shall be entitled to receive any pay-
26 ments under this subsection (3) for a period for which insured dis-
27 ability benefits are received.

28 (g) The value, as determined by the board upon recommenda-
29 tion of the actuary, of any workmen's compensation benefits paid
30 or payable to the recipient of an accidental total disability benefit
31 shall be deducted from the amount payable under this section.

32 (h) The benefit payable under subsection (3) of this section shall
33 be known and referred to as "accidental total disability benefit."

1997

34 Sec. 20. K.S.A. ~~1996~~ Supp. 74-4960a is hereby amended to read
35 as follows: 74-4960a. (1) If any active contributing member who is
36 appointed or employed on or after July 1, 1989, or who makes an
37 election pursuant to K.S.A. 74-4955a and amendments thereto to be
38 covered by the provisions of this act becomes disabled as defined
39 in subsection (2), such member shall receive a monthly benefit
40 equal to 50% of the member's final average salary at the time such
41 member was disabled payable in monthly installments, accruing
42 from the first day upon which the member ceases to draw compen-
43 sation, if a report of the disability in such form and manner as the

board shall prescribe is filed in the office of the executive secretary of the board within 220 days after the date of the commencement of such disability and if an application for such benefit in such form and manner as the board shall prescribe is filed in the office of the executive secretary of the board within two years of the date of the commencement of such disability.

(2) For the purposes of this section, "disabled" means total inability to perform permanently the duties of the position of policeman or fireman.

(3) In the event a member who is disabled and entitled to such benefits as provided in subsection (1) dies after the date of such disability, and no benefits are payable under subsection (3) of K.S.A. 74-4958 and amendments thereto, the following benefits shall be payable:

(i) To the member's spouse, if lawfully wedded to the member at the time of the member's death, a lump-sum benefit equal to 50% of the member's final average salary at the time such member was disabled.

(ii) To the member's spouse, if lawfully wedded to the member at the time of the member's death, an annual benefit equal to 50% of the member's benefit payable in monthly installments, to accrue from the first day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto, the annual spouse's benefit shall be payable in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again re-

9-25

9-26

1 *ceive benefits pursuant to this section subject to the limitations con-*
2 *tained in this section, except that such child shall not be entitled to*
3 *recover any benefits not received after the termination of benefits*
4 *by reason of such child's marriage but before the effective date of*
5 *this act.*

6 (4) *Any member who was employed for compensation by an em-*
7 *ployer other than the member's participating employer and whose*
8 *disability was incurred in the course of such other employment shall*
9 *not be eligible for any of the benefits provided in subsection (1) or*
10 *(3).*

11 (5) *If a member becomes totally and permanently disabled and*
12 *no benefits are payable under subsection (1), the sum of the mem-*
13 *ber's accumulated contributions shall be paid to the member.*

14 (6) *Any member receiving benefits under this section shall sub-*
15 *mit to medical examination, not oftener than annually, by one or*
16 *more physicians or any other practitioners of the healing arts hold-*
17 *ing a valid license issued by Kansas the state board of healing arts*
18 *to practice a branch of the healing arts, as the board of trustees may*
19 *direct. If upon such medical examination, the examiner's report to*
20 *the board that the member is physically able and capable of resum-*
21 *ing employment with the participating employer from whose em-*
22 *ployment such member was employed prior to such member's dis-*
23 *ability, the disability benefits shall terminate. A member who has*
24 *been receiving benefits under the provisions of this section and who*
25 *returns to employment of a participating employer shall immedi-*
26 *ately commence accruing service credit which shall be added to that*
27 *which has been accrued by virtue of previous service.*

28 (7) *Any member who has been receiving benefits under the pro-*
29 *visions of this section for a period of five years shall be deemed*
30 *permanent and shall not be subject to further medical examinations,*
31 *except that if the board of trustees shall have reasonable grounds*
32 *to question whether the member remains totally and permanently*
33 *disabled, a further medical examination or examinations may be*
34 *required.*

35 (8) *Refusal or neglect to submit to examination as provided in*
36 *subsection (6) shall be sufficient cause for suspending or discontin-*
37 *uing benefit payments under this section and if such refusal or ne-*
38 *glect shall continue for a period of one year, the member's rights in*
39 *and to all benefits under this system may be revoked by the board.*

40 (9) *In the event that a member becomes disabled and is eligible*
41 *for benefits provided in this section, such member shall be given*
42 *participating service credit for the entire period of such disability.*

43 (10) *Any member who is receiving benefits pursuant to this sec-*

9-27

tion shall file annually a statement of earnings for the previous year in such form and manner as the board shall prescribe. Any disability benefit paid to a member entitled to such benefit pursuant to this section shall be reduced by the board in an amount equal to a \$1 reduction in such benefit for every \$2 of earnings of such member which were earned during the previous year while such member was disabled. Such reduction shall apply only to a member's earnings which exceed \$10,000.

(11) Any benefits provided pursuant to this section and any participating service credit given pursuant to subsection (9) shall terminate upon the earliest date such member is eligible for retirement upon attainment of the normal retirement date as provided in K.S.A. 74-4964a and amendments thereto.

(12) Any member who has received benefits under the provisions of this section for a period of five years or more immediately preceding retirement shall have such member's final average salary adjusted upon retirement by the actuarial salary assumption rates in existence during such period. Effective July 1, 1993, each member's current annual rate shall be adjusted upon retirement by 5% for each year of disability after July 1, 1993.

(13) All payments due under this section to a minor shall be made to a legally appointed conservator of such minor.

(14) The provisions of this section shall be effective on and after July 1, 1989 and shall apply only to members who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a and amendments thereto; and persons appointed or employed on or after July 1, 1989.

Sec. 14 21. K.S.A. 39-952, 40-12a01, ~~65-4921~~, 65-5502, 65-5503, 65-5504, 65-5505, 65-5506, 65-5507, ~~65-5508, 65-5509~~, 65-5510, 65-5511, 65-5512; and 65-5514 and ~~65-5516~~ K.S.A. ~~1990~~ Supp. 40-3103, ~~65-4116~~, 65-4915, 74-4916 and 74-4960a are hereby repealed.

Sec. 15 22. This act shall take effect and be in force from and after March 1, 1998, and its publication in the statute book.

65-4116

1997

65-5508, 65-5509,

Effective date?

Proposed Amendment to SB 242

Be amended:

On page 27, following line 27, by inserting the following:

"Sec. 21. K.S.A. 65-2901 is hereby amended to read as follows: 65-2901. (a) As used in this act, the term "physical therapy" means a health specialty concerned with the evaluation, treatment or instruction of human beings to assess, prevent and alleviate physical disability and pain. This includes the administration and evaluation of tests and measurements of bodily functions and structures in aid of treatment; the planning, administration, evaluation and modifications of treatment and instruction, including the use of physical measures, activities and devices for prevention and therapeutic purposes; and the provision of consultative, educational and advisory services for the purpose of reducing the incidence and severity of physical disability and pain. The use of roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, and the practice of medicine and surgery are not authorized or included under the term "physical therapy" as used in this act.

(b) "Physical therapist" means a person who practices physical therapy as defined in this act and delegates selective forms of treatment to supportive personnel under the supervision of such person. Any person who successfully meets the requirements of K.S.A. 65-2906 and amendments thereto shall be

HOUSE HHS COMMITTEE
Attachment 10-1
3 - 19 - 98

known and designated as a physical therapist and may designate or describe oneself as a physical therapist, physiotherapist, ~~registered~~ licensed physical therapist, P.T., Ph. T. or ~~R-P-T-~~ L.P.T. Physical therapists may evaluate patients without physician referral but may initiate treatment only after consultation with and approval by a physician licensed to practice medicine and surgery, a licensed podiatrist or a licensed dentist in appropriately related cases.

(c) "Physical therapist assistant" means a person who works under the direction of a physical therapist, and who assists in the application of physical therapy, and whose activities require an understanding of physical therapy, but do not require professional or advanced training in the anatomical, biological and physical sciences involved in the practice of physical therapy. Any person who successfully meets the requirements of K.S.A. 65-2906 and amendments thereto shall be known and designated as a physical therapist assistant, and may designate or describe oneself as a physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst.

Sec. 22. K.S.A. 65-2904 is hereby amended to read as follows: 65-2904. The state examining committee shall be appointed as follows: The state board of healing arts shall appoint one physician licensed to practice medicine and surgery and one member of the state board of healing arts, and the governor shall appoint three physical therapists who are duly ~~registered~~ licensed physical therapists who have at least three

years' experience in physical therapy immediately preceding the appointment and are actively engaged, in this state, in physical therapy. The foregoing appointees shall constitute the state examining committee for physical therapy. Except as otherwise provided in this section, the members appointed in accordance with this section shall be appointed for terms of four years and shall serve until their successors are appointed and qualify. Of the first three physical therapist members appointed by the governor on or after July 1, 1983, one shall be appointed for a term of two years, one shall be appointed for a term of three years and one shall be appointed for a term of four years, and these members shall serve until a successor is appointed and qualified. Thereafter, physical therapist members appointed by the governor shall be appointed for terms of four years and shall serve until their successors are appointed and qualified. Each member of the committee shall take an oath as required by law for state officers. No physical therapist member appointed by the governor on or after July 1, 1983, shall be appointed for more than two successive four-year terms commencing on or after that date.

Sec. 23. K.S.A. 65-2905 is hereby amended to read as follows: 65-2905. (a) The state examining committee for physical therapy provided for in this act shall elect from their members a president and a vice-president, who shall serve for one year or until their successors are elected and qualified. The executive director of the state board of healing arts shall act as

secretary of the examining committee.

(b) The state examining committee shall serve in an advisory capacity to the state board of healing arts in matters pertaining to physical therapy. The state board of healing arts may adopt reasonable rules and regulations relative to the qualification and examination of applicants as may be found necessary for the performance of its duties. As to any matters coming under its jurisdiction, the state examining committee while in session may take testimony and any member may administer oaths in the taking of such testimony.

(c) A simple majority of the committee shall constitute a quorum for the transaction of business. The secretary shall keep a record of all procedures of the committee.

(d) The examining committee shall meet at a city designated by the examining committee and the board, and under the direction of the state board of healing arts, there conduct the examination for the ~~registration~~ licensure of physical therapists and certification of physical therapist assistants, at least once each year, and may hold other meetings and examinations at such times and places as the examining committee and board may determine.

(e) The board may appoint and fix the compensation of such employees as may be necessary to assist the examining committee, and the board shall have the power to employ such expert assistance as it may deem necessary to carry out the purposes of this act. Members of the state examining committee for physical

therapy attending meetings of such committee, or attending a subcommittee meeting thereof authorized by such committee, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

Sec. 24. K.S.A. 1997 Supp. 65-2906 is hereby amended to read as follows: 65-2906. (a) It shall be the duty of the state board of healing arts, with the advice and assistance of the state examining committee, to pass upon the qualifications of all applicants for examination and ~~registration~~ licensure or certification, provide for and conduct all examinations, determine the applicants who successfully pass the examination, duly ~~register~~ license or certify such persons and adopt rules and regulations for professional conduct of the registered or certified persons.

(b) An applicant applying for ~~registration~~ licensure as a physical therapist or for a certificate as a physical therapist assistant shall file a written application on forms provided by the state board of healing arts, showing to the satisfaction of the board that the applicant meets the following requirements:

- (1) The applicant is of legal age;
- (2) the applicant has successfully completed the academic requirements of an educational program in physical therapy approved by the board which is appropriate for the certification or ~~registration~~ licensure of the applicant;
- (3) the applicant has passed an examination required by the board which is appropriate for the certification or ~~registration~~

licensure of the applicant to test the applicant's knowledge of the basic and clinical sciences relating to physical therapy theory and practice; and

(4) the applicant has paid to the board all applicable fees established under K.S.A. 65-2911 and amendments thereto.

(c) The board shall adopt rules and regulations establishing the criteria which a school shall satisfy in order to be approved by the board for purposes of subsection (b). The board may send a questionnaire developed by the board to any school for which the board does not have sufficient information to determine whether the school meets the requirements of the board for approval and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the school to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about schools. In entering such contracts the authority to approve schools shall remain solely with the board.

~~(d) All registrations or certificates issued prior to July 17, 1994, which are in effect on the effective date of this act shall be and continue in full force and effect and be eligible for renewal and reinstatement under K.S.A. 65-2910 and amendments thereto.~~

Sec. 25. K.S.A. 65-2907 is hereby amended to read as follows: 65-2907. An applicant may be registered licensed as a

physical therapist or certified as a physical therapist assistant without a certificate of proficiency in the basic sciences from the state board of healing arts if the applicant fulfills the provisions of this act.

Sec. 26. K.S.A. 65-2908 is hereby amended to read as follows: 65-2908. The board shall ~~register~~ license as a physical therapist or certify as a physical therapist assistant each applicant who successfully meets the requirements provided for in this act for ~~registration~~ licensure as a physical therapist or certification as a physical therapist assistant and who is otherwise qualified as required herein. The board shall issue a ~~certificate-of-registration~~ license to each person ~~registered~~ licensed under this act and a certificate to each person certified under this act.

Sec. 27. K.S.A. 65-2909 is hereby amended to read as follows: 65-2909. (a) The board may issue a ~~certificate--of registration~~ license in physical therapy without examination therein to an applicant who presents evidence satisfactory to the board of having passed the examination in physical therapy of the American registry of physical therapists, or an examination before a similar, lawfully authorized examining board in physical therapy of another state, District of Columbia, territory or foreign country, if the standards for registration or licensure in physical therapy in such other state, district, territory or foreign country are determined by the board to be as high as those of this state for licensure. At the time of making such

application, the applicant shall pay to the board a fee as prescribed, no part of which shall be returned.

(b) The board may issue a certificate as a physical therapist assistant without examination therein to an applicant who presents evidence satisfactory to the board of having passed an examination as a physical therapist assistant as approved by the state board of healing arts or an examination before a similar, lawfully authorized examining board in physical therapy of another state, District of Columbia, territory or foreign country, if the standards for certification in physical therapy in such other state, District of Columbia, territory or foreign country are determined by the board to be as high as those of this state. At the time of making such application, the applicant shall pay to the board a fee as prescribed, no part of which shall be returned.

Sec. 28. K.S.A. 65-2910 is hereby amended to read as follows: 65-2910. (a) The ~~registration~~ licensure of every ~~registered~~ licensed physical therapist and the certification of every certified physical therapist assistant shall expire on the date established by rules and regulations of the state board of healing arts which may provide renewal throughout the year on a continuing basis. In each case in which a ~~registration~~ license or certificate is renewed for a period of time of less than one year, the board may prorate the amount of the fee established under K.S.A. 65-2911 and amendments thereto. The request for renewal shall be on a form provided by the board and shall be

accompanied by the renewal fee established under to K.S.A. 65-2911 and amendments thereto which shall be paid not later than the expiration date of the registration license or certificate.

(b) The state board of healing arts shall require every registered licensed physical therapist or certified physical therapist assistant as a condition of renewal to submit with the application for a renewal evidence of satisfactory completion of a program of continuing education required by the board. The board shall establish the requirements for each such program of continuing education by rules and regulations. In establishing such requirements the board shall consider any existing programs of continuing education currently being offered to registered licensed physical therapists or certified physical therapist assistants.

(c) The state board of healing arts prior to renewal of the registration license of a physical therapist, shall require the registrant licensee, if in the active practice of physical therapy within Kansas, to submit to the board evidence satisfactory to the board that the registrant licensee is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402 and amendments thereto and has paid the annual premium surcharge as required by K.S.A. 40-3404 and amendments thereto.

(d) At least 30 days before the expiration of the registration license of a physical therapist or the certificate of a physical therapist assistant, the state board of healing

arts shall notify the registrant licensee or certificate holder of the expiration by mail addressed to the registrant's licensee's last mailing address as noted upon the office records. If the registrant licensee or certificate holder fails to pay the renewal fee by the date of expiration, the registrant licensee or certificate holder shall be given a second notice that the registration license or certificate has expired and the registration license or certificate may be renewed only if the renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, the registration license or certificate shall be considered to have lapsed for failure to renew and shall be reissued only after the physical therapist or physical therapist assistant has been reinstated under subsection (e).

(e) Any registrant licensee or certificate holder who allows the registration license or certificate to lapse by failing to renew may be reinstated upon recommendation of the state board of healing arts and upon payment of the renewal fee and the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable reeducation and continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate reeducation and continuing education requirements for reinstatement of persons whose registrations licenses or certificates have lapsed for failure to renew.

Sec. 29. K.S.A. 65-2912 is hereby amended to read as follows: 65-2912. (a) The board may refuse to grant a ~~certificate of--registration~~ license to any physical therapist or a certificate to any physical therapist assistant, or may suspend or revoke the ~~registration~~ license of any ~~registered~~ licensed physical therapist or certificate of any certified physical therapist assistant for any of the following grounds:

(1) Addiction to or distribution of intoxicating liquors or drugs for other than lawful purposes;

(2) conviction of a felony if the board determines, after investigation, that the physical therapist or physical therapist assistant has not been sufficiently rehabilitated to warrant the public trust;

(3) obtaining or attempting to obtain ~~registration~~ licensure or certification by fraud or deception;

(4) finding by a court of competent jurisdiction that the physical therapist or physical therapist assistant is a disabled person and has not thereafter been restored to legal capacity;

(5) unprofessional conduct;

(6) the treatment or attempt to treat ailments or other health conditions of human beings other than by physical therapy and as authorized by this act;

(7) failure to refer patients to other health care providers if symptoms are present for which physical therapy treatment is inadvisable or if symptoms indicate conditions for which treatment is outside the scope of knowledge of the ~~registered~~

licensed physical therapist;

(8) initiating treatment without prior consultation and approval by a physician licensed to practice medicine and surgery, by a licensed podiatrist or by a licensed dentist; and

(9) knowingly submitting any misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement.

(b) All proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 30. K.S.A. 1997 Supp. 65-2913 is hereby amended to read as follows: 65-2913. (a) Any person, except a person certified as a physical therapist assistant, who engages in the practice of physical therapy or any person who, in any manner, represents oneself as a physical therapist, or who uses in connection with such person's name the words or letters physical therapist, physiotherapist, registered licensed physical therapist, P.T., Ph. T. or R-P-T- L.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist, without a valid existing ~~certificate-of--registration~~ license as a physical therapist issued to such person under the provisions of this act, shall be guilty of a class B nonperson misdemeanor.

(b) Any person who, in any manner, represents oneself as a

physical therapist assistant, or who uses in connection with such person's name the words or letters physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist assistant, without a valid existing certificate as a physical therapist assistant issued to such person pursuant to the provisions of this act, shall be guilty of a class B nonperson misdemeanor.

(c) Nothing in this act shall prohibit any person not holding oneself out as a physical therapist or physical therapist assistant from carrying out as an independent practitioner, without prescription or supervision, the therapy or practice for which the person is qualified, and shall not prohibit the person from using corrective therapy. Nothing in this act shall prohibit persons whose services are performed pursuant to the delegation of or under the supervision of a licensed physical therapist from performing physical therapy. Nothing in this act shall prohibit students from practicing physical therapy as part of an approved educational program in physical therapy while under the supervision of a qualified instructor. Nothing in this act shall prohibit any person who assists the physical therapist or physical therapist assistant from being designated as a physical therapy aide.

Sec. 31. K.S.A. 65-2914 is hereby amended to read as follows: 65-2914. (a) No person shall employ fraud or deception

in applying for or securing a ~~certificate-of-registration~~ license as a physical therapist.

(b) A person ~~registered~~ licensed under this act as a physical therapist shall not treat ailments or other health conditions of human beings other than by physical therapy unless duly licensed or registered to provide such treatment under the laws of this state.

(c) A person certified under this act as a physical therapist assistant shall not treat ailments or other health conditions of human beings except under the direction of a physical therapist duly registered under this act. The word "direction" as used in this subsection (c) shall mean that the physical therapist shall see all patients initially and evaluate them periodically except in those cases in a hospital setting when the physical therapist is not immediately available, the physical therapist assistant may initiate patient care after telephone contact with the physical therapist for documented instruction. The physical therapist must then evaluate the patient and establish a plan of treatment as soon as possible with a minimum weekly review.

(d) Any person violating the provisions of this section shall be guilty of a class B misdemeanor.

Sec. 32. K.S.A. 65-2918 is hereby amended to read as follows: 65-2918. Physical therapists practicing their profession, when ~~registered~~ licensed and practicing under and in accordance with the provisions of article 29 of chapter 65 of the

Kansas Statutes Annotated, and acts amendatory of the provisions thereof or supplemental thereto, shall not be construed to be practicing the healing arts or be subject to the healing arts act.

New Sec. 33. Any person holding a valid registration as a physical therapist immediately prior to the effective date of this act which has been issued by the state board of healing arts shall be deemed to be a licensed physical therapist and shall be subject to the provisions of this act and the provisions of article 29 of chapter 65 of the Kansas Statutes Annotated.";

And by amending statutes to change registered physical therapist to licensed physical therapist throughout the K.S.A.s (approximately 15 additional sections);

By renumbering sections accordingly;

By amending the repealer section and the title accordingly;