

Approved: March 5, 1999
Date

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on February 23 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Kansas Legislative Research
Norman Furse, Revisor of Statutes
June Evans, Secretary

Conferees appearing before the committee: Representative Ethel Peterson
Representative Nancy Kirk
Charlene Klinge
Darlene Howe
Gayle Haag, Fire Marshall

Others attending: See Attached Sheet

The Chairperson opened the hearing and stated that minutes for February 1, 2, 3, 4, 8, 9, 10, 11, 15 and 16 were distributed and would entertain a motion for approval.

Representative Geringer moved and Representative Wells seconded the minutes be approved. The motion carried.

Representative Henry explained **HB 2255**. Representative Henry moved and Representative Storm seconded to adopt the amendment by Representative Kirk. (See Attachment #1)

A Division was called: 6 Yeas and 7 Nays. The motion failed.

The Chairperson opened the hearing on **HB 2361 - Smoke detectors required to be placed in rooms of residents of adult care homes.**

Staff gave a briefing on **HB 2361.**

Representative Peterson said testimony would be given by two ladies responsible for her being here. After being contacted by them she called Health and Environment and they suggested she talk to the fire marshal. The fire marshal said they can not enforce if not on the books. They are in favor of our doing something. There is a need for this type of thing.

Charlene Klinge, Pittsburg, testified in support of **HB 2361**, stating smoke detectors are needed in all residents rooms in nursing homes. The state fire marshal's office said the nursing home is completely legal, with sprinkler systems in the rooms and smoke alarms in the foyer and halls. (See Attachment #2)

Darlene Howe, Wichita, was a proponent to **HB 2361**, stating smoke alarms are needed in each resident's rooms. (See Attachment #3)

Gayle Haag, State Fire Marshal, testified that fire code requires smoke alarms in individual rooms except for nursing homes. (See Attachment #4)

The following written testimony was distributed: John L. Kiefhaber, Executive Vice President, Kansas Health Care Association stating the research does not conclude that individual smoke detectors in resident rooms as a requirement would provide added protection for residents and individual room smoke detectors would cost facilities and the Medicaid program substantially, without delivering any improved safety for the resident. (See Attachment #5) and Debra Zehr, Vice President, Kansas Association of Homes and Services for the Aging stated that **HB 2361** would add an additional, duplicate requirement to the above list. If it is the will of the Legislature to enact this measure, it is respectfully asked that sufficient funds be

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S of the Capitol at 1:30 p.m. on February 23, 1999.

appropriated for a direct pass-through to adult care home operators for the installation of these systems. (See Attachment #6)

The Chairperson closed the hearing on **HB 2361**.

The Chairperson asked for the Sub-Committee report on **HB 2213 - Diagnosis and treatment of mental disorders by behavioral sciences regulatory board licensees**. Representative Jerry Henry, Chairperson, stated there had been one meeting with a lot of good discussion. This bill came out of the Task Force that was chaired by Representative Gilmore during the summer. The Sub-Committee recommended passage of the bill with a balloon to **HB 2213**. This is an on-going Task Force and there will be further recommendations but this will get the bill started.

The Chairperson thanked the Sub-Committee for their work.

Representative Peggy Long also thanked the Sub-Committee for their work on the bill.

Staff gave a briefing on the balloon on **HB 2213**. (See Attachment #7)

Representative Henry moved and Representative Long seconded to amend on Page 26, line 42 to change the date to July 1, 2000. The motion carried.

Representative Henry moved and Representative Bethell seconded to move **HB 2213** out of committee as amended.

Representative Gilmore moved and Representative Long seconded to amend Page 12, line 8 and change "50" hours to "75" hours and on page 13, line 34 to add "including not less than three continuing education hours of professional ethics" after "board" and delete lines 38 and 39 after "disorders". The motion carried.

The Chairperson stated we're back on the bill.

Representative Henry moved and Representative Bethell seconded to move **HB 2213** out with the two amendments. The motion carried.

The Chairperson stated hearings were held on **HB 2314**, and are now ready to work the bill.

Representative Henry moved that **HB 2314** be passed out favorably.

The bill had been amended; therefore, it could not be moved out favorably.

The Chairperson asked Representative Henry if he wanted to withdraw his motion and Representative Henry withdrew his motion..

Staff explained the amendment.

Representative Flaharty moved and Representative Storm seconded to amend **HB 2314**, Section 14 on Page 7 to strike "The Kansas audit privilege and immunity statute does not pertain to this act." and add, "The audit privilege recognized in K.S.A. 1997 Supp. 60-3332 through 60-339: Privilege and Immunity, does not apply to this act.

Representative Wells moved a substitute motion to Table **HB 2314**.

The Chairperson stated it was non-debatable.

A Division was called to Table. Yes - 9 and No - 6. **HB 2314** was Tabled.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S of the Capitol at 1:30 p.m. on February 23, 1999.

The meeting adjourned at 2:45 p.m. The next meeting will be March 3, 1999

HUMAN AND HEALTH SERVICES

DATE February 23, 1999

NAME	REPRESENTING
Stephen N. Paege	KDHE
Jeanie Teske	LBSW/MSW Josten
Mark Kumpfman	Washington Dept of Social Work
Danielle Noe	Governors Office
Stacey Soldan	Hein + Weir Chld.
Carl McDowell	KPA, Topeka
Dana Garton	KAHSA
RICK FAY	KSFM
Gale Haag	KSFMO
Jim Keating	KSFMO
USKOWSKI	KDHE
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
John Kieffer	Ks Health Care Assn.
Chip Wheeler	Ks Psychiatric Society
Barry Brooks	KDHE
Terrie Kuhlman	KS Nursing Home Administrators Assoc.
Charles Klinge	Support of HB 2361
Dorothy Woods	" "
Ethel Peterson	116 th Dist Representative
William H. Speer	City of Junction City
Sally Finney	Ks. Public Health Association
Patricia Mahan	KDHE
SAM UMSCHIED	W, Co Health
John Frederick	Boonville
Tim Wood	VIA CHRISTI HEALTH System

HOUSE BILL No. 2255

By Committee on Health and Human Services

2-4

9 AN ACT concerning family day care homes; amending K.S.A. 1998 Supp.
10 65-518 and repealing the existing section.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 1998 Supp. 65-518 is hereby amended to read as
14 follows: 65-518. Any person maintaining a family day care home *who*
15 *provides care at such place for two or more children not related to such*
16 *person by blood, marriage or legal adoption* shall register such home with
17 the secretary of health and environment on forms furnished by the sec-
18 retary. In lieu of registration, a person maintaining a family day care home
19 may seek licensure for such home as a child care facility under article 5
20 of chapter 65 of Kansas Statutes Annotated and amendments to the pro-
21 visions thereof and supplemental thereto.

22 Sec. 2. K.S.A. 1998 Supp. 65-518 is hereby repealed.

23 Sec. 3. This act shall take effect and be in force from and after its
24 publication in the statute book.

[Sec. 2 and Sec. 3 see attached.

And by renumbering sections and amending
the repealer and title accordingly

HHS
2-23-99
Atch #1

Sec. 2. K.S.A. 65-504 is hereby amended to read as follows:
65-504. (a) The secretary of health and environment shall have the power to grant a license to a person to maintain a maternity center or child care facility for children under 16 years of age. The license shall state the name of the licensee, describe the particular premises in or at which the business shall be carried on, whether it shall receive and care for women or children, and the number of women or children that may be treated, maintained, boarded or cared for at any one time. No greater number of women or children than is authorized in the license shall be kept on those premises and the business shall not be carried on in a building or place not designated in the license. The license shall be kept posted in a conspicuous place on the premises where the business is conducted. The secretary of health and environment shall grant no license in any case until careful inspection of the maternity center or child care facility shall have been made according to the terms of this act and until such maternity center or child care facility has complied with all the requirements of this act. No license shall be granted without the approval of the secretary of social and rehabilitation services, except that the secretary of health and environment may issue, without the approval of the secretary of social and rehabilitation services, a temporary permit to operate for a period not to exceed 90 days upon receipt of an initial

application for license. The secretary of health and environment shall require each person who maintains a licensed day care home annually to take and complete a course in first aid and a course in cardiopulmonary resuscitation for infants and children.

(b) (1) In all cases where the secretary of social and rehabilitation services deems it necessary, an investigation of the maternity center or child care facility shall be made under the supervision of the secretary of social and rehabilitation services or other designated qualified agents. For that purpose and for any subsequent investigations they shall have the right of entry and access to the premises of the center or facility and to any information deemed necessary to the completion of the investigation. In all cases where an investigation is made, a report of the investigation of such center or facility shall be filed with the secretary of health and environment.

(2) In cases where neither approval or disapproval can be given within a period of 30 days following formal request for such a study, the secretary of health and environment may issue a temporary license without fee pending final approval or disapproval of the center or facility.

(c) Whenever the secretary of health and environment refuses to grant a license to an applicant, the secretary shall issue an order to that effect stating the reasons for such denial and within five days after the issuance of such order shall notify the applicant of the refusal. Upon application not more than 15 days after the date of its issuance a hearing on the order shall

be held in accordance with the provisions of the Kansas administrative procedure act.

(d) When the secretary of health and environment finds upon investigation or is advised by the secretary of social and rehabilitation services that any of the provisions of this act or the provisions of K.S.A. 59-2123 and amendments thereto are being violated, or that the maternity center or child care facility is maintained without due regard to the health, comfort or welfare of the residents, the secretary of health and environment, after giving notice and conducting a hearing in accordance with the provisions of the Kansas administrative procedure act, shall issue an order revoking such license. The order shall clearly state the reason for the revocation.

(e) If the secretary revokes or refuses to renew a license, the licensee who had a license revoked or not renewed shall not be eligible to apply for a license or for a certificate of registration to maintain a family day care home under K.S.A. 65-518 and amendments thereto for a period of one year subsequent to the date such revocation or refusal to renew becomes final.

(f) Any applicant or licensee aggrieved by a final order of the secretary of health and environment denying or revoking a license under this act may appeal the order in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 3. K.S.A. 1998 Supp. 65-519 is hereby amended to read as follows: 65-519. (a) The secretary shall issue a certificate

of registration to any person who: (1) Applies for registration on forms furnished by the secretary; (2) attests to the safety of the family day care home for the care of children; (3) submits a fee of not to exceed \$15 as established by rules and regulations of the secretary of health and environment payable to the secretary of health and environment; and (4) certifies that no person described in subsection (a)(1), (2), (3), (4), (5) or (6) of K.S.A. 65-516 and amendments thereto resides, works or volunteers in the family day care home. The fee in effect under this subsection (a) immediately prior to the effective date of this act shall continue in effect on and after the effective date of this act until a different fee is established by the secretary of health and environment by rules and regulations under this subsection.

(b) The secretary shall furnish each applicant for registration a family day care home safety evaluation form to be completed by the applicant and submitted with the registration application.

(c) (1) Each child cared for in a family day care home, including children of the person maintaining the home, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a family day care home shall maintain a record of each child's immunizations, and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the

person maintaining a family day care home shall not have such person's certificate of registration revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(2) The immunization requirement of subsection (c)(1) shall not apply if one of the following is obtained:

(A) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(B) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

(d) The secretary of health and environment shall provide to each person maintaining a registered family day care home a list of the requirements for registration of family day care homes. The person maintaining a family day care home shall provide a copy of such list to the parent or guardian of each child cared for in such home and shall maintain on the premises a copy of the list which has been signed and dated by the parent or guardian. The secretary shall require each person who maintains a family day care home annually to take and complete a course in first aid and a course in cardiopulmonary resuscitation for infants and children.

(e) The certificate of registration shall be renewed annually in the same manner provided for in this section.

(f) Within six months after the initial registration and

annually thereafter, the local health department shall inspect the family day care home for the health and safety of the children cared for by the home. The safety evaluation form shall be used as the guide for the inspection.

~~(f)~~ (g) The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this act to the state treasurer at least monthly. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the state general fund.

My name is Charlene Klinge, and I am here as a voter from Pittsburg, Crawford, County, Kansas. I am here in support of House Bill 2361, concerning smoke detectors in all residents rooms in nursing homes.

I currently have an 86 year old aunt and a 104 year old grandmother in nursing homes.

The issue of smoke detectors was brought to my attention in August, 1998, when I was visiting my grandmother in the nursing home. The nurse had taken her to the bathroom, closed the door to her room behind her, as usual, and left the room. Suddenly the air conditioning unit began to smoke and quickly filled the room with black smoke. I was able to turn the unit off and the smoke stopped. I attempted to find someone to tell why the alarms would be going off, and was unable to find a nurse, so I returned to the room and using a lap robe, fanned the smoke out of the window. It was several minutes before I was able to find a nurse to tell what had happened. When she came into the room, she mentioned that the smoke smelled worse in the hall and nurses station than it did in my grandmothers room. AT NO TIME did ANY alarm go off, nor did the sprinkler system activate. Had my grandmother been alone at the time, she would have been overcome with smoke long before anyone came to check on her, or any alarm was sounded.

I was told by the State Fire Marshals Office that the nursing home is completely legal, with sprinkler systems in the rooms and smoke alarms in the foyer and halls.

The majority of residents in these facilities are unable to help themselves, and most are ignored when they holler for help. The staff get accustomed to them hollering "HELP," and don't realize it when there is an actual emergency. Most of them have television sets and other personal electrical appliances and electronic devices on their beds. Any one of these could malfunction at any time and create the toxic smoke that precedes a fire.

As you know, most fire related deaths are not caused by the actual fire, but from the toxic smoke that reaches them before the fire. The sprinklers in the rooms are activated by heat, and the hall and foyer alarms are too far away to be of any help in this type of situation. A smoke detector in each room can send an alarm before the actual fire breaks out, not only saving the residents life, but alerting the fire department much quicker, thereby saving many more lives also.

I feel there should be a smoke detector IN each residents room. If this cheap method of early detection of smoke and fire can save even one life I think it is a crime not to have them required in each room.

On January 30, 1975, a fire started in a plywood wardrobe at the Wincrest Nursing Home, 6326 N. Winthrop, Chicago, Ill. The initial alarm sounded at 11:43 a.m.; the fire was struck at 1:28p.m. Total damage from the fire, smoke and water was relatively minor, but the death toll reached 23, most of the elderly patients dying from smoke inhalation. I wonder if a \$5.00 smoke detector might have prevented most of those deaths.

Thank you very much for listening. I appreciate you attention and support on this bill.

Thanks! Charlene Klinge

HHS
2-23-99
Atch #2

I'm Darlene Howe of Wichita, KS

My concerns:

1. Smoke alarms in each resident's room.

Yes, there are smoke alarms in the hallways which don't always work right away. Therefore, it could be too late to save a life.

Yes, there are sprinkler systems in the ceilings, but they only work for fires, therefore, that doesn't do any good for smoke.

Yes, we know if a smoke alarm does go off in the hallway, in some cases due to the shortage of nurses and aids, and the large area they have to cover, it could be too late. That in itself can present a problem.

2. I'm going to speak from a handicapped persons point of view now, as well as an elderly person.

Some day we may be in a long term care home. As we know, when it happens, it's because we are unable to care for ourselves.

I certainly want the same safety requirements there as are required in our homes or apartments.

First of all, some can't see, ^{smell}hear, or move very fast and some are bedfast (and we pray the call light is always at our fingertips—which I know is not always the case). Secondly, there is always lots of voice noise, so sometimes a resident hollers and it's not taken seriously by the employees, therefore, without proper protection—it could be too late!

When we are old and/or handicapped our sense of direction is not always clear.

As an almost totally blind person myself, I'm sure the time will come when I will need the help I've spoken about and I certainly pray that every safety system will be in place—and I'm sure you will want the same.

Please, let's make this one step faster by putting SMOKE ALARMS in each room, before any more lives are taken.

Thank you,

Darlene Howe
Darlene Howe

Jayle H...

Kansas State Fire Marshal Prevention Division

FIRE FACT NO. 051 CHECKLIST(s) : 99R

TITLE : BOARD and CARE

CHECKLIST ITEM(s) : 99R

REFERENCE(s) :

PAGE 2 of 4

LIFE SAFETY FEATURE REQUIREMENTS

The following life safety information is divided into four categories, which should be carefully considered to determine which life safety features are required per home or residential setting:

- A.) one or two family dwellings;
- B.) existing facilities with 3 or more people who require assisted care;
- C.) new facilities with 3, 4, or 5 people who require assisted care;
- D.) new facilities with 6 or more people who require assisted care.

A. One or Two Family Dwellings: One or two family dwellings are not regulated by the Kansas State Fire Marshal, per Kansas Statute 31-133, and will no longer be routinely inspected. These facilities are accepted as providing an appropriate level of life safety with the owner providing an operational smoke detector inside the sleeping rooms and outside sleeping rooms in the path of exit, and a compliant escape window from sleeping rooms. (Detailed information as to a "compliant escape window" may be obtained from the Kansas State Fire Marshal's Office. Also see the Fire Facts in the Kansas Buildings Fire Safety Handbook. The substantive outcome must be that there are two escape from every room used for sleeping, which the person using the room can readily utilize for effective escape in the event of a fire).

B. "Existing Facilities" with 3 or more Assisted Care Residents: If there are 3 or more people who require assisted care support in the event of a fire, living in an "existing facility" (any facility other than a "new facility" as defined above), the following life safety features must be met:

- 17.) Each sleeping room shall be provided with a smoke detector powered by the building electrical system. Battery smoke detectors must have been previously accepted by the Kansas State Fire Marshal's Office in writing. Testing and maintenance must be properly documented (See Fire Facts 005, 006, 007, 036). Inspectors will sample battery operated detectors to verify operation.

C. "New Facilities" with 3 - 5 Assisted Care Residents: If there are 3, 4, or 5 people who require assisted care support in the event of a fire, living in a "new facility" as defined above, the following life safety features must be met:

- 1.) An approved residential/quick response sprinkler system (NFPA 13D) designed and installed by approved entities, shall be appropriately maintained at all times.
- 2.) Sleeping rooms separated from non-sleeping rooms by barriers and doors which resist the passage of smoke.
- 3.) Interconnected smoke detectors throughout all occupiable areas which shall immediately alert all staff and people living in the home or residential setting.
- 4.) Emergency lighting shall be provided in common egress areas.
- 5.) An emergency plan shall be in place with staff trained as to how to handle abnormal/emergency conditions.
- 6.) Hazards such as flammable/combustible liquids, cooking, utilities, etc., shall be handled in accordance with existing codes and standards.

gms. Ducts do not require smoke dampers.

- 9.) The minimum exit corridor width shall be 36 inches wide. When the exit corridor serves 50 or more occupants, it shall be 44 inches wide.

HHS
2-23-99
Atch #4



KHCA

Member of
ahca

Kansas Health Care Association

221 SOUTHWEST 33rd STREET
TOPEKA, KANSAS 66611-2263
(785) 267-6003 • FAX (785) 267-0833

February 22, 1999

Chairman Garry Boston
House Committee on Health and
Human Services
State Capitol
Topeka, KS 66612

Dear Chairman Boston:

The Kansas Health Care Association, representing over 200 professional nursing facilities and assisted living facilities, offers the following comments on issues raised by the introduction of House Bill 2361, concerning smoke detectors in adult care homes.


For many years research has been carried out by life safety code experts, the National Fire Protection Association, and nursing facility industry groups into to role of smoke detectors in providing added safety for our nursing home residents. The research does not conclude that individual smoke detectors in resident rooms as a requirement would provide added protection for residents.

Our facilities in Kansas operate under a Life Safety Code system of protections from fire and smoke, including structural requirements of buildings, the use of fire doors at key spots in the facility, and staff inspections throughout the building. Nursing facilities typically have dozens of staff who can react in a moment to any fire hazard.

In addition, all Kansas facilities are licensed, and most are Medicare/Medicaid certified, to meet or exceed all modern fire safety requirements already. Individual room smoke detectors would cost facilities and the Medicaid program substantially, without delivering any improved safety for the resident.

We would appreciate your Committee's consideration of these points during your review of House Bill 2361.

Sincerely,


JOHN L. KIEFHABER
Exec. Vice President

HHS
2-23-99
Atch # 5

KAHSA

KANSAS ASSOCIATION OF
HOMES AND SERVICES FOR THE AGING

WRITTEN COMMENTS ON HOUSE BILL 2361

To: Representative Garry Boston, Chair, and Members,
House Health and Human Services Committee
From: Debra Zehr, Vice President
Date: February 22, 1999

Thank you Mr. Chair, and Members of the Committee for the opportunity to offer written comments on House Bill 2361. The Kansas Association of Homes and Services for the Aging represents 160 not-for-profit long-term health care, housing, and community service providers throughout the state.

Fire safety measures in place in nursing homes and assisted living facilities in Kansas include:

1. Facilities are held to stringent federal Life Safety Code (LSC) requirements based on:
 - Facility size
 - Construction materials
 - Whether the facility is new or existing
 - Configuration/floor plan
 - Occupancy type (level of care being provided to occupants)
2. Facilities are subject to periodic unannounced surveys by the State Fire Marshal.
3. Facilities are subject to significant fines if noncompliance is found.
4. Facilities must have a fire evacuation plan.
5. Facilities must conduct periodic fire drills.
6. Facilities must provide fire prevention inservicing to all staff at least annually.
7. Most facilities now have designated smoking areas or have gone completely "smoke-free."

House Bill 2361 would add an additional, duplicative requirement to the above list. If it is the will of the Legislature to enact this measure, we respectfully ask that sufficient funds be appropriated for a direct pass-through to adult care home operators for the installation of these systems.

HOUSE BILL No. 2213

By Committee on Health and Human Services

2-2

Subcommittee Recommendations

HHS
2-23-99
Atch # 17

9 AN ACT concerning the behavioral sciences regulatory board; concern-
10 ing professions regulated by the board; amending K.S.A. 65-5805, 65-
11 6302, 65-6308, 65-6313, 65-6315, 74-5302 and 74-5318 and K.S.A.
12 1998 Supp. 65-5802, 65-5803, 65-5804, 65-5806, 65-5808, 65-5809,
13 65-5810, 65-5812, 65-6306, 65-6319, 65-6402, 65-6403, 65-6404, 65-
14 6407, 65-6411, 74-5361, 74-5362, 74-5363, 74-5365, 74-5369, 74-5371
15 and 74-5372 and repealing the existing sections.
16

17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. K.S.A. 1998 Supp. 65-5802 is hereby amended to read as
19 follows: 65-5802. As used in the professional counselors licensure act:

20 (a) "Board" means the behavioral sciences regulatory board created
21 by K.S.A. 74-7501 and amendments thereto.

22 (b) "Practice of professional counseling" means assisting an individual
23 or group for a fee, monetary or otherwise, through counseling, assess-
24 ment, consultation and referral *and includes the diagnosis and treatment*
25 *of mental disorders as authorized under the professional counselors licen-*
26 *sure act.*

27 (c) "Professional counseling" means to assist an individual or group
28 to develop understanding of personal strengths and weaknesses, to re-
29 structure concepts and feelings, to define goals and to plan actions as
30 these are related to personal, social, educational and career development
31 and adjustment.

32 (d) "Assessment" means selecting, administering, scoring and inter-
33 preting instruments designed to describe an individual's aptitudes, abili-
34 ties, achievements, interests and personal characteristics.

35 (e) "Consultation" means the application of principles, methods and
36 techniques of the practice of counseling to assist in solving current or
37 potential problems of individuals or groups in relation to a third party.

38 (f) "Referral" means the evaluation of information to identify prob-
39 lems and to determine the advisability of referral to other practitioners.

40 (g) "Licensed professional counselor" means a person who is licensed
under this act and who engages in the private practice of professional
counseling and is licensed under this act except that on and after January
43 1, 2002, such person shall engage in the practice of professional counseling

1 impairs the individual's ability to engage in the practice of professional
2 counseling;

3 (j) assisting or enabling any person to hold oneself out to the public
4 or offer to hold oneself out to the public as a licensed professional coun-
5 selor or a licensed clinical professional counselor who is not licensed un-
6 der the provisions of the professional counselors licensure act;

7 (k) the issuance of the license was based upon a material mistake of
8 fact;

9 (l) violation of any professional trust or confidence;

10 (m) use of any advertisement or solicitation which is false, misleading
11 or deceptive to the general public or persons to whom the advertisement
12 or solicitation is primarily directed;

13 (n) unprofessional conduct as defined by rules and regulations
14 adopted by the board; or

15 (o) the licensee has had a registration, license or certificate as a pro-
16 fessional counselor revoked, suspended or limited, or has had other dis-
17 ciplinary action taken, or an application for a registration, license or cer-
18 tificate denied, by the proper regulatory authority of another state,
19 territory, District of Columbia, or other country, a certified copy of the
20 record of the action of the other jurisdiction being conclusive evidence
21 thereof.

22 Sec. 8. K.S.A. 1998 Supp. 65-5810 is hereby amended to read as
23 follows: 65-5810. (a) The confidential relations and communications be-
24 tween a licensed professional counselor and such counselor's client are
25 placed on the same basis as provided by law for those between an attorney
26 and an attorney's client.

27 (b) *The confidential relations and communications between a licensed*
28 *clinical professional counselor and such counselor's client are placed on*
29 *the same basis as provided by law for those between an attorney and an*
30 *attorney's client.*

31 Sec. 9. K.S.A. 1998 Supp. 65-5812 is hereby amended to read as
32 follows: 65-5812. Nothing in the professional counselors licensure act
33 shall be construed:

34 (a) To apply to the activities and services of qualified members of
35 other professional groups including, but not limited to, attorneys, physi-
36 cians, psychologists, masters level psychologists, marriage and family ther-
37 apists, registered nurses or social workers, others performing counseling
38 not for a fee, or others performing counseling consistent with the laws of
39 this state, their training and any code of ethics of their professions, in-
40 cluding school, industrial, financial, vocational, rehabilitation or any sim-
41 ilar type counselor so long as they do not represent themselves by any
42 title or description in the manner prescribed in K.S.A. 65-5803 and
43 amendments thereto;

(c) Nothing in this section or in this act shall be construed to prohibit any licensed professional counselor or licensed clinical professional counselor from testifying in court hearings concerning matters of adult abuse, adoption, child abuse, child neglect, or other matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues or administrative superiors, or both, on behalf of the client.

mation is relevant under the circumstances.

(b) *The confidential relations and communications between a licensed master social worker's or a licensed specialist clinical social worker's client are placed on the same basis as provided by law for those between an attorney and an attorney's client.*

(b) (c) Nothing in this section or in this act shall be construed to prohibit any licensed social worker from testifying in court hearings concerning matters of adoption, child abuse, child neglect, or other matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues or administrative superiors, or both, on behalf of the client.

adult abuse,

Sec. 15. K.S.A. 1998 Supp. 65-6319 is hereby amended to read as follows: 65-6319. (a) The following licensed social workers may diagnose and treat mental disorders classified in the diagnostic manuals commonly used as a part of accepted social work practice: (1) (a) A licensed specialist clinical social worker, and (2) (b) a licensed master social worker who performs diagnoses of mental disorders within the course of employment by a licensed community mental health center, a state facility authorized to provide psychotherapeutic services or a not-for-profit entity approved under subsection (e) of section 501 of the internal revenue code when such licensed master social worker is under the direction of (i) a person licensed to practice medicine and surgery, (ii) a licensed psychologist, or (iii) a licensed specialist clinical social worker.

(b) Nothing in this section shall be construed to authorize a licensed social worker who under subsection (a) may diagnose mental disorders classified in the diagnostic manuals commonly used as a part of accepted social work practice to provide direction for licensed masters level psychologists under K.S.A. 74-5362 and amendments thereto.

(c) This section shall be part of and supplemental to the provisions of article 63 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof and supplemental thereto *engages in the practice of social work only under the direction of a licensed specialist clinical social worker, a licensed psychologist, a person licensed to practice medicine and surgery or a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of mental disorders.*

Sec. 16. K.S.A. 1998 Supp. 65-6402 is hereby amended to read as follows: 65-6402. As used in the marriage and family therapists licensure act:

(a) "Board" means the behavioral sciences regulatory board created under K.S.A. 74-7501 and amendments thereto.

(b) "Marriage and family therapy" means the assessment and treatment of cognitive, affective or behavioral problems within the context of

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1 *agnosing or treating mental disorders; or*
 2 (c) *attestation from one professional licensed to diagnose and treat*
 3 *mental disorders in independent practice or licensed to practice medicine*
 4 *and surgery that the applicant is competent to diagnose and treat mental*
 5 *disorders.*

6 (3) *A licensed clinical marriage and family therapist may engage in*
 7 *the independent practice of marriage and family therapy and is author-*
 8 *ized to diagnose and treat mental disorders specified in the edition of the*
 9 *diagnostic and statistical manual of mental disorders of the American*
 10 *psychiatric association designated by the board by rules and regulations.*
 11 *On and after January 1, 2002, a licensed marriage and family therapist*
 12 *may diagnose and treat mental disorders specified in the edition of the*
 13 *diagnostic and statistical manual of mental disorders specified in the edi-*
 14 *tion of the diagnostic and statistical manual of mental disorders of the*
 15 *American psychiatric association designated by the board by rules and*
 16 *regulations only under the direction of a licensed clinical marriage and*
 17 *family therapist, licensed psychologist, person licensed to practice medi-*
 18 *cine and surgery or person licensed to provide mental health services as*
 19 *an independent practitioner and whose licensure allows for the diagnosis*
 20 *and treatment of mental disorders.*

21 Sec. 19. K.S.A. 1998 Supp. 65-6407 is hereby amended to read as
 22 follows: 65-6407. (a) An applicant who meets the requirements for licen-
 23 sure pursuant to this act, has paid the license fee provided for by K.S.A.
 24 65-6411 and amendments thereto and has otherwise complied with the
 25 provisions of this act shall be licensed by the board.

26 (b) Licenses issued pursuant to this act shall expire 24 months from
 27 the date of issuance unless revoked prior to that time. A license may be
 28 renewed upon application and payment of the fee provided for by K.S.A.
 29 65-6411 and amendments thereto. The application for renewal shall be
 30 accompanied by evidence satisfactory to the board that the applicant has
 31 completed during the previous 24 months the continuing education re-
 32 quired by rules and regulations of the board. *As part of such continuing*
 33 *education, the applicant shall complete not less than six continuing edu-*
 34 *cation hours relating to diagnosis and treatment of mental disorders and*
 35 *not less than three continuing education hours of professional ethics.*

36 (c) A person whose license has been suspended or revoked may make
 37 written application to the board requesting reinstatement of the license
 38 upon termination of the period of suspension or revocation in a manner
 39 prescribed by the board, which application shall be accompanied by the
 40 fee provided for by K.S.A. 65-6411 and amendments thereto.

41 Sec. 20. K.S.A. 1998 Supp. 65-6411 is hereby amended to read as
 42 follows: 65-6411. (a) The board shall fix by rules and regulations and shall
 43 collect the following fees:

Sec. 20 K.S.A. 1998 Supp. 65-6410 attached.

And by numbering sections accordingly.

And by amending the repealer and title accordingly.

Sec. 20. K.S.A. 1998 Supp. 65-6410 is hereby amended to read as follows: 65-6410. (a) A person licensed under the marriage and family therapists licensure act and employees and professional associates of the person shall not be required to disclose any information that the person, employee or associate may have acquired in rendering marriage and family therapy services, unless:

(a)(1) Disclosure is required by other state laws;

(b)(2) failure to disclose the information presents a clear and present danger to the health or safety of an individual;

(c)(3) the person, employee or associate is a party defendant to a civil, criminal or disciplinary action arising from the therapy, in which case a waiver of the privilege accorded by this section is limited to that action;

(d)(4) the patient is a defendant in a criminal proceeding and the use of the privilege would violate the defendant's right to a compulsory process or the right to present testimony and witnesses in that person's behalf; and

(e)(5) a patient agrees to a waiver of the privilege accorded by this section, and in circumstances where more than one person in a family is receiving therapy, each such family member agrees to the waiver. Absent a waiver from each family member, a marriage and family therapist shall not disclose information received by a family member.

(b) Nothing in this section or in this act shall be construed to prohibit any person licensed under the marriage and family therapist licensure act from testifying in court hearings

ncerning matters of adult abuse, adoption, child abuse, child
neglect, or other matters pertaining to the welfare of children
or from seeking collaboration or consultation with professional
colleagues or administrative superiors, or both, on behalf of a
client.

1 under the provisions of this act.

2 Sec. 22. K.S.A. 74-5318 is hereby amended to read as follows: 74-
3 5318. On or before the first day of April of alternate years, the board shall
4 mail to every psychologist licensed in Kansas; an application blank for
5 renewal, which shall contain space for insertion of information as required
6 for the application blank under K.S.A. 74-5317 and amendments thereto,
7 addressing the same in accordance with to the post office address given
8 at the last previous renewal. *In addition, the application for renewal shall*
9 *be accompanied by evidence satisfactory to the board that the applicant*
10 *has completed, during the previous 24 months, the continuing education*
11 *required by rules and regulations of the board. As part of such continuing*
12 *education, a licensed psychologist shall complete not less than six contin-*
13 *uing education hours relating to diagnosis and treatment of mental dis-*
14 *orders and not less than three continuing education hours of professional*
15 *ethics.*

16 Sec. 23. K.S.A. 1998 Supp. 74-5361 is hereby amended to read as
17 follows: 74-5361. As used in this act:

18 (a) "Practice of psychology" shall have the meaning ascribed thereto
19 in K.S.A. 74-5302 and amendments thereto.

20 (b) "Board" means the behavioral sciences regulatory board created
21 by K.S.A. 74-7501 and amendments thereto.

22 (c) "Licensed masters level psychologist" means a person licensed by
23 the board under the provisions of this act.

24 (d) "Licensed clinical masters level psychologist" means a person li-
25 censed by the board under this act who engages in the independent prac-
26 tice of clinical masters level psychology including the diagnosis and treat-
27 ment of mental disorders specified in the edition of the diagnostic and
28 statistical manual of mental disorders of the American psychiatric asso-
29 ciation designated by the board by rules and regulations.

30 (d) (e) "Masters level psychology" means the practice of psychology
31 pursuant to the restrictions set out in K.S.A. 74-5362 and amendments
32 thereto and includes the diagnosis and treatment of mental disorders as
33 authorized under K.S.A. 74-5361 et seq.

34 Sec. 24. K.S.A. 1998 Supp. 74-5362 is hereby amended to read as
35 follows: 74-5362. (a) Any person who is licensed under the provisions of
36 this act as a licensed masters level psychologist shall have the right to
37 practice *psychology* only insofar as such practice is part of the duties of
38 such person's paid position and is performed solely on behalf of the em-
39 ployer, so long as such practice is under the direction of a *licensed clinical*
40 *masters level psychologist, a licensed psychologist, a person licensed to*
41 *practice medicine and surgery or a person licensed to provide mental*
42 *health services as an independent practitioner and whose licensure allows*
43 *for the diagnosis and treatment of psychological mental disorders.*

[Sec. 24 K.S.A. 74-5323 attached.

And by numbering sections accordingly.

And by amending the repealer and title accordingly.

Sec. 24. K.S.A. 1998 Supp. 74-5323 is hereby amended to read as follows: 74-5323. (a) The confidential relations and communications between a licensed psychologist and the psychologist's client are placed on the same basis as provided by law for those between an attorney and the attorney's client. Except as provided in subsection (b), nothing in this act shall be construed to require such privileged communications to be disclosed.

(b) Nothing in this section or in this act shall be construed to prohibit any licensed psychologist from testifying in court hearings concerning matters of adult abuse, adoption, child abuse, child neglect, or other matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues or administrative superiors, or both, on behalf of a client.

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1 (f) has had a registration, license or certificate as a masters level psy-
2 chologist revoked, suspended or limited, or has had other disciplinary
3 action taken, or an application for a registration, license or certificate
4 denied, by the proper regulatory authority of another state, territory, Dis-
5 trict of Columbia or another country, a certified copy of the record of the
6 action of the other jurisdiction being conclusive evidence thereof.

7 Administrative proceedings under K.S.A. 74-5361 to 74-5371, inclu-
8 sive, and amendments thereto shall be conducted in accordance with the
9 Kansas administrative procedure act. Judicial review and civil enforce-
10 ment of agency actions under K.S.A. 74-5361 to 74-5371, inclusive, and
11 amendments thereto shall be in accordance with the act for judicial review
12 and civil enforcement of agency actions.

13 Sec. 28. K.S.A. 1998 Supp. 74-5371 is hereby amended to read as
14 follows: 74-5371. (a) No person shall engage in *the* practice of masters
15 level psychology or represent oneself as a licensed masters level psychol-
16 ogist or use the abbreviation LMLP or use any word, letter, signs, figures
17 or devices to indicate that such person using the same is a licensed masters
18 level psychologist unless such person holds a valid license as a licensed
19 masters level psychologist.

20 (b) *No person shall engage in the practice of clinical masters level*
21 *psychology or represent oneself as a licensed clinical masters level psy-*
22 *chologist or use the abbreviation LCMLP or use any word, letter, signs,*
23 *figures or devices to indicate that such person using the same is a licensed*
24 *clinical masters level psychologist unless such person holds a valid license*
25 *as a licensed clinical masters level psychologist.*

26 (b)(c) A violation of this section is a class C misdemeanor.

27 Sec. 29. K.S.A. 1998 Supp. 74-5372 is hereby amended to read as
28 follows: 74-5372. (a) The confidential relations and communications be-
29 tween a licensed masters level psychologist and such psychologist's client
30 are placed on the same basis as provided by law for those between an
31 attorney and an attorney's client.

32 (b) *The confidential relations and communications between a licensed*
33 *clinical masters level psychologist and such psychologist's client are placed*
34 *on the same basis as provided by law for those between an attorney and*
35 *an attorney's client.*

36 Sec. 30. K.S.A. 65-5805, 65-6302, 65-6308, 65-6313, 65-6315, 74-
37 5302 and 74-5318 and K.S.A. 1998 Supp. 65-5802, 65-5803, 65-5804, 65-
38 5806, 65-5808, 65-5809, 65-5810, 65-5812, 65-6306, 65-6319, 65-6402,
39 65-6403, 65-6404, 65-6407, 65-6411, 74-5361, 74-5362, 74-5363, 74-
40 5365, 74-5369, 74-5371 and 74-5372 are hereby repealed.

41 Sec. 31. This act shall take effect and be in force from and after
42 January 1, 2000, and its publication in the statute book.

(c) Nothing in this section or in this act shall be construed to prohibit any licensed masters level psychologist or licensed clinical masters level psychologist from testifying in court hearings concerning matters of adult abuse, adoption, child abuse, child neglect, or other matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues or administrative superiors, or both, on behalf of the client.

Long
Schultz
to July 1