

Approved: March 4, 1999

Date

MINUTES OF THE HOUSE KANSAS 2000 SELECT COMMITTEE.

The meeting was called to order by Chairperson Kenny Wilk at 1:30 p.m. on February 15, 1999 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Leah Robinson, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Janet Mosser, Committee Secretary

Conferees appearing before the committee: Senator Sandy Praeger  
Terri Roberts, Executive Director, Kansas State Nurses Association  
Mack Smith, Executive Secretary, Kansas State Board of Mortuary Arts  
Bob Williams, Executive Director, Kansas Pharmacist Association  
Terry Stearman, Chairman, Kansas Board of Barbering  
Gary Reser, Executive Director, Kansas Veterinary Medical Association  
Judy Pope, Kansas Chiropractic Association

Others attending: See attached list

Chairperson Wilk opened the hearing on **HB 2389 concerning reorganization of the state executive department creating a division of professional regulation within the department of health and environment.**

Chairperson Wilk recognized Senator Sandy Praeger, proponent, to address the Committee. Senator Praeger explained to the Committee that the bill was a recommendation that originated in the Health Care Reform Legislative Oversight Committee this past interim as it looked at the need to consolidate information systems and ultimately at how various health professions were licensed. It was felt that if a better job could be done coordinating administrative efforts, it would further the goal of getting more accurate and complete information about the health care system and provide some administrative efficiencies. The bill was originally scheduled in the Public Health and Welfare Committee but Senator Praeger asked that it be moved to the Kansas 2000 because of its charge to look at bigger picture issues. Senator Praeger was hopeful that the idea could stay alive in some form. She stated that if there is a better way to perform administrative functions related to various health care professions, it should be looked at.

Leah Robinson, Legislative Research Department, gave a briefing on the bill (**Attachment 1**).

Chairperson Wilk recognized Terri Roberts, Executive Director, Kansas State Nurses Association, opponent, to address the Committee (**Attachment 2**).

Mack Smith, Executive Secretary, Kansas State Board of Mortuary Arts, opponent, was recognized by Chairperson Wilk (**Attachment 3**).

Bob Williams, Executive Director, Kansas Pharmacist Association, opponent, was recognized by Chairperson Wilk (**Attachment 4**).

Terry Stearman, Chairman, Kansas Board of Barbering, opponent, was recognized by Chairperson Wilk (**Attachment 5**).

Gary Reser, Executive Director, Kansas Veterinary Medical Association, opponent, was recognized by Chairperson Wilk (**Attachment 6**).

Judy Pope, Kansas Chiropractic Association, opponent, was recognized by Chairperson Wilk (**Attachment 7**).

Rep. Lane moved to table **HB 2389**. The motion was seconded by Rep. Sharp. The motion carried.

Conferees not testifying before the committee were asked to leave their written testimony with the Committee Secretary.

Kansas Podiatric Medical Association, Shelby Smith, opponent (**Attachment 8**).

Kansas State Board of Nursing, Patsy Johnson, opponent (**Attachment 9**).

Kansas Funeral Directors and Emblamers Association, Pam Scott, opponent (**Attachment 10**).

Kansas Association of Osteopathic Medicine, Harold Riehm, opponent (**Attachment 11**).

Kansas Board of Healing Arts, Lawrence Buening, opponent (**Attachment 12**).

Kansas Dental Association, Kevin Robertson, opponent (**Attachment 13**).

Kansas Livestock Association, Mike Beam, opponent (**Attachment 14**).

Chairperson Wilk informed the Committee that, while a pay bill is still a few days away, an explainer is being prepared by the Legislative Research Department and should be available tomorrow.

Representative Wilk reminded the Committee that the Kansas University Hospital Authority will give a briefing tomorrow on their recent transition to a new pay structure.

Representative Carmody announced that the KPERS subcommittee would meet immediately upon adjournment.

Chairperson Wilk adjourned the meeting at 2:20 p.m.

The next meeting is scheduled for February 16, 1999.

# KANSAS 2000 SELECT COMMITTEE GUEST LIST

DATE: 2-15-99

NAME	TITLE	REPRESENTING
Keith Houston		SEAK
Don Kye	Lobbyist	S E A K
Pat Lehman	"	KS Fire Service Alliance
Rosalie Smith	Visitor	
Rocky V. C.	Administrator	KS BARBER Board
Jenny Stearns	Ch. Bd.	" "
Mike Beam	Ks. Luth. Arm.	Ks. Luth. Arm.
Pam Scoll	<del>Ks. Funeral Directors</del> EXEC. DIRECTOR	Ks Funeral Directors Assn
M. Hawver	Publisher	Hawver's Capital Report
Shelley King	Antara	McGill, Gaches & Assoc.
SCOTT SCHNEIDER	DAITH VADER	MGA
Gary Reser	EXEC. DIRECTOR	KS. VETERINARY MED. ASSN.
DIRK HANSON	EXEC. DIR.	Ks Bd of Vet Examiners
Lesla Bray	Director Health Occ C. ed.	KDHE
Mack Smith	Exec. Sec.	Ks ST Bd of <sup>Mastering</sup> Art
Bob Williams	Exec. Director	Ks. Pharmacists Assoc.
Jessie (Preston)	Exec. Director	Ks. Dental Assn.
Charles Riehm	EX. DIR	KS ASSN <del>OSTEOPATHIC MED</del>
Chip Wheelen	Dir. of Member Services	KS Assn of Osteopathic Med
LARRY BUENING	EXEC DIRECTOR	Bd OF HEALING ARTS
Mack Stafford	General Counsel	"
Michael White	Constituent	"
Kerrie Ruhlman	Exe. Director	KS Professional Nursing Home Administrators Assoc
Carolyn Middleburg	Leg. Chair/Pact Pres.	KSAWA





**House Bill No. 2389**

- Purpose of bill: group the health-related state boards and health-related professionals under one administrative division to eliminate duplication of effort and use existing resources more efficiently
- Establishes the Division of the Professional Regulation and the position of Director of Professional Regulation within the Department of Health and Environment (KDHE)
  - Director appointed by and serves at the pleasure of Secretary;
  - Rule and regulation authority to Director after consultation with boards
  - Establishes powers and duties of Director
- Transfers health related boards, commissions, and entities intact to Division of Professional Regulation.
  - Any transferred entity shall continue to exercise all its powers, duties, and functions, *excluding the power to establish rules and regulations*, regarding the rendering of findings, orders and adjudications, independently of the Director of Professional Regulation
- Each health related board transferred to the Division of Professional Regulation retains its initial responsibility for approving initial and renewal of licenses, certifications and registrations, and its responsibility for final disciplinary actions
- Transfers the following entities to the Division of Professional Regulation:
 

–Board of Adult Care Home Administrators	–Board of Pharmacy
–Behavioral Sciences Regulatory Board	–Speech-Language Pathology and Audiology Bd.
–State Board of Cosmetology	–Board of Veterinary Examiners
–State Board of Healing Arts	–Dietitians
–Board of Nursing	–Kansas Board of Barbering
–Dental Board	–State Board of Mortuary Arts
–Emergency Medical Services Board	–Board of Examiners for Hearing Aids
–Board of Examiners in Optometry	–Any Other Health-Related Board
- Transfers those officers and employees of existing entities who are deemed necessary to perform the powers, duties, and functions of the Division to the Division
  - Transferred employees shall retain retirement benefits, all rights of civil service which the officer or employee had as of the effective date of the transfer;
- Conforms the existing statutes regulating the health-related entities covered in the bill to the new legislation



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the Voice of Nursing in Kansas

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

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

**FOR INFORMATION CONTACT:**

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February 15, 1999

## H.B. 2389 Creation of an Umbrella Agency for Ministerial Duties of Health Professions Boards

Chairman Wilkins and members of the House Select 2000 Committee, my name is Terri Roberts and I am the Executive Director of the Kansas State Nurses Association (KSNA). KSNA is the professional organization for registered nurses, created in 1912, and providing a voice for the more than 27,000 Kansas R.N.'s licensed by the Kansas State Board of Nursing.

In 1913 when a handful of diploma educated nurses came before the Kansas legislature to ask that "unqualified and untrained" individuals not be permitted to call themselves "nurses", this same body enacted the law that protected the title of the "registered nurse". The 1913 Legislation created the "Kansas State Board for Examination and Registration of Nurses." It was registration legislation, that in the 1940's was changed to a licensure law, that in essence protects the scope of practice for registered nurses. Only licensed nurses can perform those functions spelled out in statute, and we have grown to be the largest group of licensed health professions in this state and in the country. For all the other agencies that this bill covers, their numbers when added together for licensees governed would still come about 4000 short of the number of licensees that the Kansas State Board of Nursing governs, a total of 41,582. (RN's 32,400: LPN's 8625: LMHT's 557)

KSNA cannot support H.B. 2389 for a number of reasons, but the most compelling is that the economies of scale argument for consolidation of ministerial functions is already in place at the Board of Nursing. If licensed nurses were included in the umbrella or "mega" board, this new entity would spend half their time processing license renewals, applications and investigations related to licensed nurses. We estimate that 1 out of every 2 applications, renewals or phone inquiries would be regarding nursing licensure. We therefore support maintaining a separate licensing agency for the regulation of nursing, including the ministerial duties of renewals, applications, and investigations.

The mission of the Kansas State Nurses Association is to promote professional nursing, to provide a unified voice for nursing in Kansas and to advocate for the health and well-being of all people.

Constituent of The American Nurses Association

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The other list of reasons for our recommendations include:

- No state general fund dollars are expended to operate the Board of Nursing, licensure fees completely support this “protection of the public function” carried out by the Board. In fact, because the BON collects over 1 million dollars annually, the 20% given to the state general fund (not to mention the interest off the fee fund balance) is at the maximum of \$200,000 annually.
- RN & LPN licenses are renewed every two years, using the birthday month of the licensee. This spreads the workload for the agency staff. The variations among the boards listed in this bill for “renewal” of licensure applications would be very challenging for one entity to maintain. If changes were needed, this could take up to 3 years to successfully implement for a newly created entity.
- The Kansas Department of Health and Environment is already experiencing and reflecting signs of being “too big and cumbersome” as a single state agency. On the health side alone, just one subdivision of one bureau-Child Care Licensing is a solid two months behind in processing “exceptions” and other functions related to the licensing of child care centers. KDHE would be “overwhelmed” with the prospect of consuming the licensing functions of these Boards, even with the requisite funding that followed such a move.
- There appears to be no reason to abandon the current status quo. No evidence or patterns of problems have been publicly identified to warrant such a dramatic change in how the health professions are licensed. We also have found that none of our colleagues in other health disciplines are willing to support this proposal.

In closing, if this committee does find a compelling reason to go forward with this legislation we ask for your consideration that the Board of Nursing, based on its size alone be either excluded from the mega board or brought in as the very last agency.

**Thank you for consideration.**

Date: Thursday, February 4, 1999  
To: House Kansas 2000 Select Committee  
From: Mack Smith, Executive Secretary  
Kansas State Board of Mortuary Arts  
Regarding: House Bill 2389

Chairman Wilk and members of the Committee, I am Mack Smith, the Executive Secretary of the Kansas State Board of Mortuary Arts. I appreciate the opportunity to testify before you today in opposition of House Bill 2389.

The Mortuary Arts Board does not receive any federal funding, is not required to supply any statistics to the federal government and to the best of my knowledge—other than our agency mission of protecting the health and welfare of Kansas consumers— has never been considered a “health care” agency of any kind. The Board has existed autonomously for more than 90 years with our budgets based around access to 80% of all receipts.

The Board opposes being included as a part of House Bill 2389 for a number of reasons that can probably best be summarized as “If it’s not broke, then don’t fix it.” We average close to 1,000 consumer contacts annually, answering questions of individuals either dealing or planning to deal with one the toughest things possible - that being death. We investigated more than 80 complaints in 1998, distributed close to 4,000 informational brochures to individuals preparing to deal with the death process, as well as granting, suspending and revoking licenses in order to protect the health and welfare and to provide information to Kansas consumers. While I’m sure you will hear that “the profession we regulate is specialized” argument several times today, the regulation of situations concerning death is truly just that: specialized.

Based on language in the bill, it appears that if a centralized agency was established and our agency was a part of it – an additional 20% of receipts would go to the centralized agency – leaving only 60% of approved receipts to be used. The current

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system in place is working very well, and I stand before you today asking that you either remove the Kansas State Board of Mortuary Arts as a part of House Bill 2389 or oppose the bill in its entirety. The inability to have access to the expertise currently in place to educate the general public on the process and options surrounding death would create an undue hardship on Kansas consumers. Preventive maintenance is one of the most productive means of regulation. Eliminating that ability would create an undue hardship with Kansas consumers at a very difficult and complicated time of their lives. I thank you for the opportunity to testify today. I would be glad to attempt to answer any questions that you may have regarding the Kansas State Board of Mortuary Arts.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mack Smith", written over a horizontal line.

Mack Smith, Executive Secretary  
The Kansas State Board of Mortuary Arts

MS



THE KANSAS PHARMACISTS ASSOCIATION  
1308 SW 10TH AVENUE  
TOPEKA, KANSAS 66604-1299  
PHONE (785) 232-0439  
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ROBERT R. (BOB) WILLIAMS, M.S., C.A.E.  
EXECUTIVE DIRECTOR

TESTIMONY  
Kansas 2000 Select Committee  
February 15, 1998

HB2389 (aka SB109)

My name is Bob Williams. I am the Executive Director of the Kansas Pharmacist Association. Thank you for this opportunity to address the Committee regarding this issue. I have attached to my testimony a copy of the testimony I presented to the Health Care Reform Legislative Oversight Committee last September regarding this issue. In that testimony you will find a description of the State Board of Pharmacy as well as its licensing and inspection procedures.

The Kansas Pharmacists Association is opposed to HB2389. We are unaware of any problems pharmacists or consumers are having with the current structure of the State Board of Pharmacy which would necessitate the need for this change. My colleagues in states which have "umbrella" boards (Indiana, Texas, Colorado, Wisconsin, Washington, and Florida) have indicated to me their merged boards have resulted in bureaucratic log jams resulting in frustration by those needing services such as licensure verification/applications and permits. Because of the difficulty consumers have in locating someone with knowledge and expertise to provide information within the bureaucratic structure of these "umbrella" boards, my colleagues report the "umbrella" boards are not considered "consumer friendly". The creation of a division of

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"professional regulation" within the Department of Health and Environment is contrary to the national and local movement towards the dismantling of large, burdensome, bureaucratic agencies.

HB2389 does not address specifics regarding the proposed structure of the Pharmacy Board. It is therefore difficult to address specific issues. However, I foresee problems resulting from personnel of the new agency implementing the Pharmacy Board's pharmacy inspection responsibilities. All pharmacies and prescription medication outlet centers are inspected annually. Currently, the State Board of Pharmacy has 3 inspectors who are licensed pharmacists in Kansas. It is our understanding that HB2389 would create a "pool" of inspectors from which the various licensing boards would draw. We believe it is very important that pharmacy inspectors be licensed pharmacists. If the "umbrella" board is to employ as inspectors licensed pharmacists sufficient in number to conduct the annual inspection of all registered pharmacies, then what has been gained by the reorganization and how will other licensing boards be benefitted by having 3 or 4 licensed pharmacists in the "pool" of inspectors? On the other hand, if the "pool" will not include licensed pharmacists who will conduct the annual inspections of pharmacies, how will consumers of pharmacy services be protected? The experience in other states having "umbrella" boards has shown that the pharmacy boards in these states have eventually discontinued annual inspections because of their inability to utilize licensed pharmacists as inspectors. I respectfully submit that a similar result in Kansas would not be in the best interest of the public health, safety and welfare.

We are also concerned that, with thousands of licensees being managed by one agency, pharmacy issues would not receive the necessary attention and be overshadowed by the larger licensee groups. It also should be pointed out that licensing boards are not supported by tax



dollars but by the fees. Therefore, any type of consolidation would not result in tax dollar savings.

The Kansas Pharmacists Association does not believe HB2389 is necessary nor do we feel it would result in any cost savings to the State of Kansas. More importantly, we question whether this bill promotes the public health, safety and welfare. We encourage the Committee to vote no on HB2389.

Thank you.

G:\KPHA\LEGISLATIVE\TESTIMON\sb109



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ROBERT R. (BOB) WILLIAMS, M.S., C.A.E.  
EXECUTIVE DIRECTOR

**TESTIMONY**  
Health Care Reform Legislative Oversight Committee  
September 21, 1998

**Licensing Agencies**

My name is Bob Williams, I am the Executive Director of the Kansas Pharmacists Association. Thank you for this opportunity to address the Committee regarding this issue.

While we understand the purpose of these hearings is not to debate the merits of a single "mega" licensing board, we would like to go on record opposing any change to the current structure.

It might help to review the current functions of the State Board of Pharmacy. To be licensed, pharmacists must pass two separate exams, the North American Pharmacist Licensing Examination (NAPLEX) and the Multi-State Pharmacy Jurisprudence Examination (MPJE). The NAPLEX is a standard exam which every pharmacist applicant in the United States must take in order to be licenced. The MPJE is a customized exam which covers Kansas laws and regulations. Both of these exams are computerized. An individual seeking licensure would make an application to the National Association of Boards of Pharmacy (NABP). Upon approval from NABP, the applicant would be instructed to go to a testing center (in Kansas the Sylvan Technical and Testing Facility). Results are forwarded from NABP to the Kansas State Board of Pharmacy for processing.

In addition to the licensing process, the State Board of Pharmacy processes pharmacy registrations. Registration requirements are contained in KSA 65-1643. The law requires all pharmacies, institutional drug rooms, manufacturers, wholesalers, individuals offering samples,

pharmacy students, etc. to register with the State Board of Pharmacy. This is not a computerized process. The State Board also processes continuing education credits for relicensure (pharmacists must receive 30 hours of continuing pharmacy education every two years). In addition, every pharmacy in Kansas is inspected annually and the State Board responds to complaints filed by consumers.

Five pharmacists and one consumer (all appointed by the Governor) comprise the State Board. They meet five times per year. Their current staff consists of an Executive Secretary, two full time office secretaries, and three inspectors.

Because I was on vacation when I received notice about this hearing, I have not had an opportunity to do any extensive research regarding "mega" boards in other states. However, after a few quick phone calls to other states, the single most important feature they indicated was the necessity for the Pharmacy Board to maintain its autonomy and complete control of its licensing, registration and certification processes as well as their pharmacy database. According to one of the states I spoke with, the "mega" agency was so large and cumbersome, there was little oversight regarding the investigation of complaints or confirmation that appropriate continuing education requirements were met for relicensure. They also indicated it is important that the "mega" board be created in such a way that no one "department" dominate over other departments. A couple of additional comments made by other states were that each division should have their own licensing form rather than a "standard" form for all. In some cases, consumers found it difficult to locate the appropriate board (directory listings did not include numbers/addresses for individual departments).

I have attached to my testimony a listing by state of the various types of boards of pharmacy.

**Survey  
of  
Pharmacy  
Law****LEGEND**

- A — Board of Pharmacy.
- B — State Board of Pharmacy. (PA — Board promulgates, others review and approve.)
- C — Commission of Pharmacy.
- D — Department of Professional Regulation.
- E — Board of Registration in Pharmacy.
- F — Board of Examiners in Pharmacy.
- G — Department of Education.
- H — Department of Commerce & Insurance.
- I — Department of Health.
- J — Department of Consumer and Industry Services, Office of Health Services.
- K — State Examining Boards.
- L — Department of Consumer Protection.
- M — Department of Commerce and Consumer Affairs.
- N — Department of Regulatory Agencies.
- O — Pharmacy Examining Board.
- P — Department of Consumer Affairs.
- Q — Department of Regulation and Licensing.
- R — Department of State.
- S — Division of Occupational Professional Licensing. (PA — Bureau of Professional and Occupational Affairs.)
- T — Mayor.
- U — Board of Commissioners of Pharmacy.
- V — Board of Regents.
- W — Must be approved by General Assembly. (PA — And various other regulatory review agencies.)
- X — Budget is biennial.
- Y — Except for fines collected under Pharmacy Act.
- Z — Department of Labor, Licensing and Regulation.
- AA — For fines only.
- BB — The Board has two budgets. One operates with Board funds from its designated funds account. The other operates 80 percent from Board-generated funds and 20 percent from general revenue.
- CC — Board of Pharmacy Examiners.
- DD — Department of Professional and Financial Regulation.
- EE — Eight clinical and 14 non-clinical site inspectors.
- FF — Centralized investigations pool.
- GG — One compliance officer, three inspectors outside of Board control.
- HH — Health & Human Services, Department of Regulation and Licensure, Credentialing Division.
- II — Licensure fees fund Board activities.


 Organizational Law
**NABPLAW® Search Terms**  
(type as indicated below)**Board Description**

- ▲ board & duties & regulation
- ▲ finance
- ▲ funds & board ^ impaired ^ peer
- ▲ fiscal & board & year

State	First Enactment	Board Designation/ State Agency	Rules and Regulations Made By	Number of Compliance Officers/ Inspectors	Board Fiscal Year
Alabama	1931	B	B	5	Oct. 1-Sept. 30
Alaska	1935	A	A	—	July 1-June 30
Arizona	1903	B	B	4	July 1-June 30
Arkansas	1891	B	B	3	July 1-June 30
California	1891	B	B	21	July 1-June 30
Colorado	1887	B, N	B	4	July 1-June 30
Connecticut	1881	C, L	C, L	13	July 1-June 30
Delaware	1883	B	B	7	July 1-June 30
District of Columbia	1906	A	A, T	5	July 1-June 30
Florida	1889	A	A	13	July 1-June 30
Georgia	1881	B, K	B	14	July 1-June 30
Guam	—	F, I	B	1	Oct. 1-Sept. 30
Hawaii	1949	B, M	B	FF	July 1-June 30
Idaho	1889	A	A	4	July 1-June 30
Illinois	1881	B, D	B, D	9	Jan. 1-Dec. 31
Indiana	1899	A	A	4	July 1-June 30
Iowa	1880	CC	CC	6	May 1-April 30
Kansas	1885	B	B	3	July 1-June 30
Kentucky	1874	A	A	2.5	July 1-June 30 X
Louisiana	1888	A	A	5	Jan. 1-Dec. 31
Maine	1877	U, DD	U, DD	2	July 1-June 30
Maryland	1902	A	A	4 GG	July 1-June 30
Massachusetts	1885	E, P	E, I	4	July 1-June 30
Michigan	1885	A, J	A	FF	Oct. 1-Sept. 30
Minnesota	1885	A	A	5	July 1-June 30
Mississippi	1892	B	B	4	July 1-June 30
Missouri	1881	A	A	6	July 1-June 30
Montana	1895	A	A	1	July 1-June 30
Nebraska	1887	F, I	F, HH	3	July 1-June 30
Nevada	1901	B	B	3.5	July 1-June 30
New Hampshire	1875	A	A	4	July 1-June 30
New Jersey	1877	B	B	5	July 1-June 30
New Mexico	1889	A	A	6	July 1-June 30
New York	1884	A, G	V	FF	July 1-June 30
North Carolina	1881	A	A	7	Oct. 1-Sept. 30
North Dakota	1887	B	B	4	July 1-June 30
Ohio	1884	B	B	8/14 EE	July 1-June 30
Oklahoma	1899	B	B	4	July 1-June 30
Oregon	1891	B	B	5	July 1-June 30
Pennsylvania	1887	B, R, S	B, W	6	July 1-June 30
Puerto Rico	1927	A, I	A	—	July 1-June 30
Rhode Island	1870	A, I	A	2	July 1-June 30
South Carolina	1876	A, Z	W	3	July 1-June 30
South Dakota	1899	B	B	2	July 1-June 30
Tennessee	1893	A, H	A	5	July 1-June 30
Texas	1907	B	B	10	Sep. 1-Aug. 31
Utah	1892	A, S	S	FF	July 1-June 30
Vermont	1894	A	A	1	July 1-June 30
Virginia	1886	A	A	4	July 1-June 30
Washington	1891	B	B	10	July 1-June 30 X
West Virginia	1881	A	A, W	4	July 1-June 30
Wisconsin	1882	O, Q	O	9	July 1-June 30
Wyoming	1886	B	B	1	July 1-June 30

THE STATE



OF KANSAS

STATE BOARD OF BARBERING

Jayhawk Tower  
700 S. W. Jackson; Suite 1002  
Topeka, Kansas 66603-3811  
(913) 296-2211

TESTIMONY ON HOUSE BILL NO. 2389

CHAIRMAN WILK AND MEMBERS OF THE KANSAS 2000 SELECT COMMITTEE.

GOOD AFTERNOON. MY NAME IS TERRY STEARMAN AND I AM THE CHAIRMAN OF THE KANSAS BOARD OF BARBERING. THE KANSAS BOARD OF BARBERING, ITSELF, IS A FIVE-MEMBER BOARD, ALL APPOINTED BY THE GOVERNOR. FOUR (4) MEMBERS OF THE BOARD ARE LICENSED BARBERS AND THE OTHER MEMBER IS THE PUBLIC-AT-LARGE. THE APPOINTMENTS ARE FOR THREE (3) YEAR TERMS AS SPECIFIED BY STATUTE. THE STAFF OF THE BOARD CONSISTS OF AN EXECUTIVE DIRECTOR; ONE (1) HALF-TIME OFFICE SPECIALIST; AND ONE (1) HALF-TIME INSPECTOR.

FOR THE RECORD, THE BOARD IS UNANIMOUSLY OPPOSED TO HOUSE BILL NO. 2389.

AS NOTED IN LINES 34 AND 35 OF PAGE 4 OF THE BILL, THE KANSAS BOARD OF BARBERING IS DIRECTLY MENTIONED AS ONE OF THE FIFTEEN (15) STATE AGENCIES TO BE TRANSFERRED TO A NEWLY CREATED DIVISION OF PROFESSIONAL REGULATION UNDER THE SUPERVISION OF THE KANSAS HEALTH AND ENVIRONMENT.

IT IS UNDERSTOOD THAT THE PURPOSE OF THIS ACT IS TO, IN PART, GROUP HEALTH-RELATED STATE BOARDS. GRANTED, THE KANSAS DEPARTMENT OF HEALTH AND

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ENVIRONMENT PROMULGATES THE KANSAS ADMINISTRATIVE REGULATIONS FOR THE SANITATION OF BARBERS, BARBER SHOPS, SALONS, AND BARBER COLLEGES. HOWEVER, WE ARE NOT INCLUDED IN PUBLIC LAW 99-660, THE FILING OF REPORTS TO THE NATIONAL PRACTITIONER DATA BANK.

A MAJOR CONCERN OF THIS BOARD AND TO THE LICENSED BARBERS ACROSS THE STATE IS REVENUE. CURRENTLY, 80% OF THE FEES COLLECTED ARE DEPOSITED INTO THE BOARD OF BARBERING FEE FUND. THE REMAINING 20% GOES INTO THE STATE GENERAL FUND. ON PAGE 2 OF THE BILL, LINES 31 AND 32 READS AS FOLLOWS: "CHARGE AND COLLECT FROM EACH BOARD UNDER THE DIVISION 20% OF THE YEARLY COST OF SERVICES PERFORMED FOR SUCH BOARD," AND LINES 33 THROUGH 36 READS AS FOLLOWS: "PREPARE AND SUBMIT TO THE SECRETARY OF HEALTH AND ENVIRONMENT A YEARLY BUDGET FOR OPERATING EXPENSES FOR THE DIVISION WHICH SHALL NOT INCLUDE FUNDING PAID BY EACH BOARD OF 20% OF THE YEARLY COST OF SERVICES PERFORMED FOR SUCH BOARD." THE RESULTANT IS THEN THE BOARD WILL ONLY RETAIN 60% OF ALL RECEIPTS? THIS WILL CREATE THE NEED FOR INCREASING LICENSURE AND/OR RENEWAL FEES.

AS I HAVE STATED, WE ARE IN OPPOSITION OF THE PASSAGE OF HOUSE BILL NO. 2389.

I THANK YOU FOR YOUR TIME. AND IF THERE ARE ANY QUESTIONS, I WILL ATTEMPT TO ANSWER THEM AT THIS TIME.





# KANSAS VETERINARY MEDICAL ASSOCIATION, INC.

816 SW Tyler, Suite 200, Topeka, Kansas 66612, (913) 233-4141

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## Testimony

Kansas 2000 Committee

Monday, February 15, 1999

by Gary Reser, Executive Director

Kansas Veterinary Medical Association

The Kansas Veterinary Medical Association (KVMA) represents almost 700 Kansas veterinarians through legislative, regulatory, educational, and public awareness programs.

It has been brought to the KVMA's attention that the Kansas Board of Veterinary Examiners would be one of approximately 15 Kansas health-related and professional boards that would be grouped within a division of professional regulation in the Kansas Dept. of Health and Environment (KDH&E) as part of the provisions of **H.B. 2389**.

**The KVMA strongly opposes H.B. 2389 and asks that you vote against this bill.**

The KVMA has the impression that the addition of the Kansas Board of Veterinary Examiners to **H.B. 2389** was more or less an afterthought when this legislation was developed by the Health Care Reform Legislative Oversight Committee. The KVMA and the Board of Veterinary Examiners were not invited to take part in any discussions leading up to the drafting of this legislation. Neither group was even aware of the concept outlined in **H.B. 2389** until **S.B. 109** was introduced in the Senate three weeks ago.

The Kansas Board of Veterinary Examiners has made significant strides in recent years in upgrading staff, administration, and technology to cope with issues pertaining to food animal safety and companion animal medicine. It has also conscientiously and systematically addressed the need to strengthen its regulatory, disciplinary, and enforcement authority. The Board is at a critical juncture in these efforts and realistically acknowledges other goals to be reached.

During the current legislative session, the KVMA is vigorously supporting the Board in a comprehensive attempt to update and, in a number of ways, toughen the Kansas Veterinary Practice Act. The objective is to provide the Board with additional tools to soundly regulate the profession and continue to maintain the integrity, safety, viability, and professionalism of veterinary medicine in Kansas.

The KVMA and its veterinary professionals who labored long and dutifully to reach the consensus on Practice Act changes feel that a shift in "midstream" to another regulatory approach would seriously impede the progress that the Board and the profession have sought in cooperation. It would also distract from the crucial work that will continue to insure that veterinary medicine in Kansas will always be held to the highest conceivable standards.

**For all of these reasons, Representative Wilk and Committee members, the KVMA opposed H.B. 2389 and asks that you vote against this bill.**

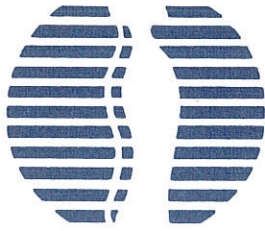
Respectfully,

Gary Reser, CAE, Executive Director  
Kansas Veterinary Medical Association

Kansas 2000 Select Committee

Meeting Date 2-15-99

Attachment 6



# Kansas Chiropractic Association

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## TESTIMONY

**TO:** Kansas 2000 Select Committee of the House

**FROM:** Judy A. Pope  
Legal Counsel

**DATE:** February 15, 1999

**RE:** House Bill No. 2389

Mr. Chairman and Members of the Committee. My name is Judy Pope and I am the Legal Counsel for the Kansas Chiropractic Association. The Kansas Chiropractic Association appreciates the opportunity to offer testimony in opposition to HB 2389.

The KCA is opposed to HB 2389 for many reasons. I will try to briefly outline a few of our major concerns relating specifically to the provisions which affect the Kansas Board of Healing Arts.

HB 2389 states it's purpose is to eliminate overlapping and duplication of effort and use existing resources more efficiently. It does not do that. If anything, the bill creates overlapping, duplicate services and grows a new and unnecessary layer of government bureaucracy.

Furthermore, the bill "strips" all board powers from the individual boards, which are composed of professional volunteers and public members, and "shifts" those powers to the director. The result is the creation of what can only be called a "Licensing Czar." Here are some examples:

- o Section 2(b) of the bill "strips" all rule and regulation authority from the licensing boards and "shifts" that authority to the director. In the process of attempting to do that, the bill's provisions directly conflict with over 50 current statutes relating just to the professions regulated by the Board of Healing Arts.
- o Section 2(c)(5) "strips" the ability to hire investigators from the boards and "shifts" it to the director. If that happened, all specialization would be lost. It is simply not practical to expect investigators to be knowledgeable about the law, rules and regulations of all the different professions in the division.
- o Authority to investigate disciplinary cases is also "stripped" from the boards and "shifted" to the director in Section 2(c)(6). If passed into law, the boards would not be able to subpoena witnesses, take evidence by subpoena duces tecum or even require the production of records without first asking for permission from the director. That type of authority is a recipe for abuse and a prescription for disaster. For example, if the director's personal physician had a complaint filed against him or her, the director could totally and completely shelter the doctor from investigation or discipline by simply not reaching a "finding of sufficient need." If that happened, the Board of Healing Arts would be completely powerless to act.

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Attachment 7



- o Section 3(a) states that the individual boards "shall exercise their prescribed statutory powers." However, when you realize that the bill "strips" and "shifts" to the director all authority to make rules and regulations, set licensure expiration dates (Section 20(a)), establish appropriate continuing education requirements (Section 20(b)), set fees (Section 20(d)), determine examinations and passing grades (Section 22(a)), determine re-examination procedures (Section 22(b)), approve subpoenas and clerical staff (Section 24), establish educational standards for colleges (Section 28(b)) and determine unprofessional conduct (Section 41(a)(2)), there are little or no "statutory powers" left. In fact the boards would simply become nothing more than "mouthpieces" for the investigations and decisions made by the director and the division.
- o Section 4 of the bill gives the boards "responsibility for final disciplinary actions" but all authority to investigate matters has been "stripped" and "shifted" to the director. That means the boards would only be allowed to approve or reject the decisions of the director and her attorneys and investigators. It is not in the public's interest to have bureaucrats making these decisions and leaving the volunteer professionals and public citizen board members out of the process.
- o Section 24 of the bill so completely handcuffs the disciplinary counsel of the Board of Healing Arts that it will be almost impossible for her to fulfill her public protection duties. It is also important to note that the Board cannot even appoint a disciplinary counsel without first "notifying and consulting with the division of professional regulation."
- o Section 24 then "strips" and "shifts" authority for issuing subpoenas from "any court having power" to "the director of the division." It is not in the public's interest to transfer that power from a judge to a person who may or may not even be an attorney.
- o Section 24 concludes by "stripping" and "shifting" authority for rules and regulations regarding the performance of the disciplinary counsel's duties to the division. How can a board be expected to fulfill its duties if it cannot develop rules for and supervise the duties of its own employees?

But the most shocking part of HB 2389 is that it became a bill at all. During last summer and fall, the KCA attended all of the Health Care Reform Legislative Oversight Committee hearings. To our knowledge, not a single provider group testified in any of the hearings in favor of a division of professional regulation or proposed any of the changes contained in this bill. Yet somehow, some way, this bill has been introduced in both houses of the Legislature.

The Kansas Chiropractic Association strongly urges the Legislature not to take any action which would grow unnecessary, additional layers of government, which is opposed by almost all of the affected provider groups and state licensing boards, and which is detrimental to the public's interest.

**Testimony**

Shelby Smith, Lobbyist  
Kansas Podiatric Medical Association

**Kansas 2000 Select Committee  
February 15, 1999  
House Bill 2389**

I believe Kansas has over 40 licensing and regulatory boards.

In systems such as those that exist in Kansas, the "face of regulation" is a jumble. While generally clear to the profession being regulated, the philosophies, processes, requirements, penalties, and procedures are vastly different from board to board. In many of the state's regulated professions the needed expertise and specialization lies within the profession itself. On the surface, an umbrella organization would appear to promote efficiency..

However, just the opposite would occur by creating A NEW LAYER OF GOVERNMENT BUREAUCRACY. Other states with mega boards report bureaucratic log jams, inefficiencies, and generally a system not user friendly.

From Colorado and Utah, you can see a potential for some efficiencies and savings in centralized functions -- personnel, budgeting, accounting, and information technology. Their process on budgetary procedures gives you a total cost of regulation, a visible line item quantification of operations, and a vehicle for evaluating needs for additional staff positions, or new funding for a specific purpose.

However, this is NOT A SAVINGS OF TAX DOLLARS. The money comes from fee funded boards.

Colorado's complaint investigation system is interesting. It appears to eliminate the perception of improper influence wherein the persons who investigate a complaint do not act on it -- case can be appealed under the state's administrative procedures act to an administrative law judge who is from a separate agency. The judge hears the case, creates a record, makes findings, and recommendations for action.

132 South Fountain  
Wichita, Kansas 67218  
316-684-1371

820 Quincy, Suite 310  
Topeka, Kansas 66612  
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PUBLIC AFFAIRS CONSULTANTS

Kansas 2000 Select  
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Regulation is intended to protect the public interest, however, understanding who a board serves varies as to structure as well as the strength and political influence of professional or trade associations. In some cases professional warfare exists between groups and the first battle field is the regulatory board of oversight. House Bill 2389 would not stop scope of practice issues from coming before the Legislature.

Our concerns are the efficiency and permanency of the conceptual dual focus and divided authority of "ministerial" responsibilities with the new Division of Professional Regulation within KDHE, and policy responsibilities somehow remaining with the individual boards. Ultimately, this could very well lead to altering balanced control (1998 House Bill 2763) of the Kansas Board of Healing Arts (KBHA) or at some time in the future, its continued existence. KBHA works well in their mission to protect the public, and assures patient care is held to high standards.

Our key question in the Latin is, "cui bono," who benefits? Is it those we regulate? Or is it the customers who rely on the services we regulate? We fail to see improvement in the public health and safety of Kansans in the proposed legislation. For this reason, we oppose House Bill 2389.

Thank you.

Two handwritten signatures in blue ink, one on the left and one on the right, separated by a small gap. The signatures are stylized and difficult to read.

# Kansas State Board of Nursing

Landon State Office Building  
900 S.W. Jackson, Rm. 551 S  
Topeka, Kansas 66612-1230  
785-296-4929  
FAX 785-296-3929



Patsy L. Johnson, R.N., M.N.  
Executive Administrator  
785-296-5752  
ksbn0@ink.org

To: Representative Kenny Wilk, Chairperson  
And Members of the Kansas 2000 Select Committee

From: Patsy L. Johnson, M.N., A.R.N.P.  
Executive Administrator  
Kansas State Board of Nursing

Date: February 15, 1999

Re: HB 2389

The Board of Nursing has taken no position with regard to HB 2389. This bill will dissolve at least 13 health care agencies and put them into a division of professional regulation in the Department of Health and Environment. The rationale for this change is to eliminate overlapping, duplication of effort, and use existing resources more efficiently.

The Board asks the following questions:

- ◆ What are the advantages of a decentralized system over a centralized system?
- ◆ What are the total cost savings of centralizing sixteen groups together?
- ◆ What is the cost in the development of such a division? What would be the cost of a new computer system?
- ◆ Who pays for the cost of centralizing?
- ◆ Would licensure fees have to be raised to pay for services under a new system?
- ◆ How efficient or inefficient are the small agencies now? Board of Nursing processes over 24, 000 applications per year with only three employees.

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**Janette Pucci, R.N., M.S.N.**  
Education Specialist  
296-3782  
ksbn1@ink.org

**Patricia McKillip, R.N., Ph.D.**  
Education Specialist  
296-3782  
ksbn1@ink.org

**Diane Glynn, R.N., J.D.**  
Practice Specialist  
296-4325

**Rex G. Beasley, J.D.**  
Assistant Attorney General  
Disciplinary Counsel  
296-8401

- ◆ What could small agencies do together in a decentralized system to eliminate overlapping, duplication of effort and use existing resources more efficiently?

An example of recent cooperation:

The Board of Nursing and Board of Cosmetology worked together in selecting a vendor for new computer services.

The Executive Directors of a number of boards have been meeting to work on education materials for the public, orientation of board members, and shared educational programming.

- ◆ Would a centralized system solve the disagreements over expanding health care practice?

While a number of states have centralized systems, there are probably as many that do not. Texas evaluated a change within the last few years, but decided against it. Because the Board of Nursing is strongly supportive of efficient use of time and money in providing a quality product, it encourages further discussion of a centralized system before resources are used for such reorganization.

I would like to note that there are many nursing statutes that would need revision in addition to K.S.A. 74-1106 that is in the bill.

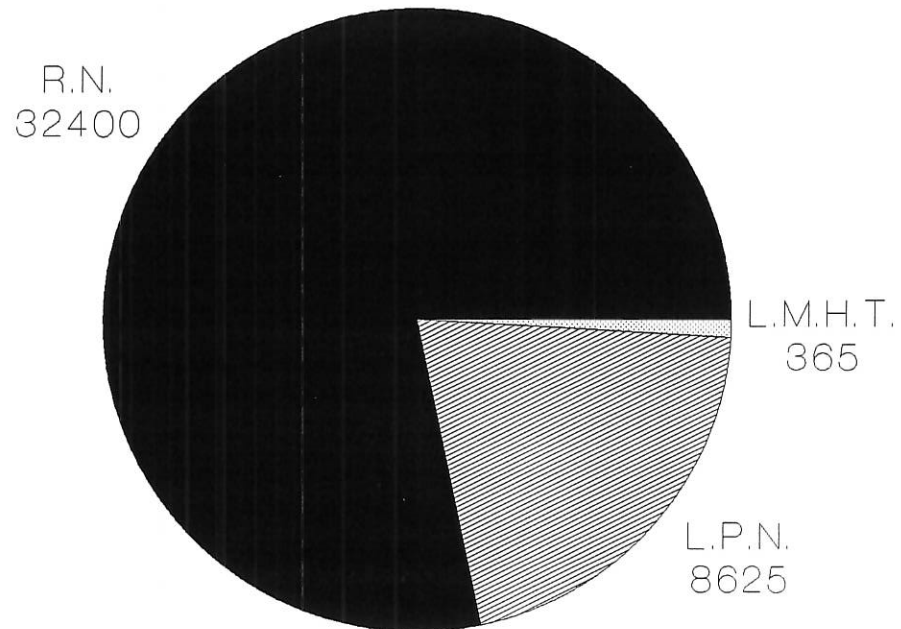
The Board of Nursing asks that the committee take no action on HB 2389 because of the many unanswered questions that still exist.

Thank you.

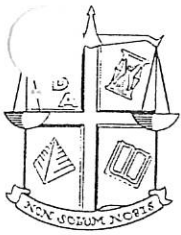
I am available for questions.



# BOARD OF NURSING 1999 LICENSEES



Total - 41,060



# KANSAS FUNERAL DIRECTORS AND EMBALMERS ASSOCIATION, INC.

1200 S. KANSAS AVENUE ♦ PO BOX 1904 ♦ TOPEKA, KS 66601-1904

PHONE (785) 232-7789 ♦ FAX (785) 232-7791

AFFILIATED WITH NFDA

## Testimony before the Kansas 2000 Select Committee

February 15, 1999

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### EXECUTIVE DIRECTOR

**PAM SCOTT**  
Topeka

Mr. Chairman and members of the Committee, I am Pam Scott, Executive Director of the Kansas Funeral Directors and Embalmers Association (KFDA). I am here to testify in opposition to House Bill No. 2389.

The KFDA is concerned that the public will lose out if this legislation is adopted. We believe the bill will create a huge inefficient super agency, which will be unresponsive to the public and to the funeral service professional. We can envision a consumer being shuffled around the agency until an employee with some limited knowledge of funeral service is found which can attempt to respond to their question. This most likely would happen at an often devastating and confusing time of the consumer's life. The State Board of Mortuary Arts is currently staffed efficiently by an executive director, investigator, and secretary. The Executive Director and Investigator combined have over 30 years of experience in regulating funeral service and are very responsive to the public. They are able to quickly respond to the hundreds of telephone inquiries they receive each year concerning funeral service. They have the specialized expertise to investigate consumer complaints. While many health-related professions may face similar issues, such similarity is not shared with the field of mortuary arts. We believe that combining the unique profession of mortuary arts with the health-related professions will diminish the services of the agency and its ability to meet the public's need.

We would argue that the State Board of Mortuary Arts should not be included in this mega agency covering health-related boards and their professionals since it is not health-related. It does not regulate a health-related profession in the same sense as other agencies included in this bill. Funeral establishments, funeral directors and embalmers obviously do not deal with living patients. They deal with the dead, whose health has failed. Unlike with many of the other professions included in the bill, there is no overlapping of or need to coordinate the care and treatment of a patient with other health care professionals. Funeral directors and embalmers are unique in their roles and responsibilities and should not be included with health-related fields who serve the living and not the dead.

As to the bills purported purpose of creating efficiencies, it is difficult to determine from the bill whether a cost saving will result from combining the various boards. The Mortuary Arts Board is a fee-based agency. It appears that if there is a cost savings, it should be passed on to the licensees in a reduction of licensing fees.

Finally, the bill is proposing to place this new super agency under the Department of Health and Environment, which is itself under consideration for possible reorganization. The Department of Health and Environment is notoriously understaffed and overworked.

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Perhaps this proposed legislation should be set aside until the future of the Department is resolved.


In conclusion, we would urge you to oppose House Bill No. 2389 or at the minimum amend the bill to remove the State Board of Mortuary Arts from the list of so-called "health-related" entities included in the bill. The State Board of Mortuary Arts has operated successfully and efficiently as an autonomous entity for over ninety years and should continue to do so.

# Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director  
1260 SW Topeka Blvd  
Topeka, KS 66614

(785) 234-5563  
(785) 234-5564 fax  
e-mail: kansasdo@aol.com

February 15, 1999

To:  Chairman Wilk and Members, Kansas 2000 Select Committee  
From: Harold E. Riehm, Executive Director, Kansas Association of Osteopathic Medicine  
Subject: Views in Opposition to HB 2389

Thank you for this opportunity to express our views on HB 2389.

We applaud the efforts of those who are suggesting change. For affected parties, defense of the status quo is always a tempting response. Response would instead be tempered with reasons stated as to how changes can improve the present system.

I appear as a representative of physicians who are regulated by and responsible to the Kansas State Board of Healing Arts. We respectfully suggest that key questions are these:

- (1) Will the changes enhance the Board's ability to protect the public?
- (2) Will the changes result in more efficient operation and use of resources?
- (3) Will the changes enhance legislative oversight of the Board through budgeting/appropriations, Rules and Regulations, and statutory change?
- (4) Will the changes improve the health consuming public's understanding of the system or improve its ability to communicate within the system?
- (5) Will changes facilitate understanding of the system by those licensed, registered and regulated by it?

In examining these questions, we have concluded that the changes, from the perspective of the Board of Healing Arts, appear to offer little in improved efficiency or enhancement of protecting the public. We cannot speak to impact upon other boards, except in very general terms.

We think public protection has been improved with the availability of full time legal and disciplinary staff. Under the changed system those persons would apparently be part of a pool of persons available to many Boards. Ultimate disciplinary decisions will continue to rest with the Board, but those conducting the investigation will be one step removed.

The new Division will impose one more level of bureaucracy into the system. We suggest it will be a deterrent to communication that currently characterizes the relationship between the Board and its administrative staff.

The State already had centralized many ministerial functions, i.e., budgeting, accounting, purchasing, personnel administration. The advantages of centralizing the more mechanical processes have been offset by technological change.

We think the process of rules and regulations and statutory change is muddied a bit, with the insertion of another layer between direct agency access and the Legislature itself.

We see little change in addressing the perceived problem some state, i.e., the difficulty Kansas citizens have in knowing whom to contact with questions or complaints.

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Finally, licensees or registrants feel a direct part of the system. They pay their fees to a specific body which, in turn licenses, relicenses, and, when necessary, disciplines them. That Board is comprised, in part, of peers. To introduce a new layer of administration may make it more difficult to pinpoint responsibility and to identify with it. To this extent, this is an act of decentralization, not centralization.

We could elaborate much more, time permitting. We conclude by stating that this is a proposal that may work if, as a result of continued evaluation, concerns of affected practitioners are considered. We hope to be a participant in that review.

# KANSAS BOARD OF HEALING ARTS

**BILL GRAVES**  
Governor



235 S. Topeka Blvd.  
Topeka, KS 66603-3068  
(785) 296-7413  
FAX # (785) 296-0852  
(785) 368-7102

## MEMORANDUM

TO: Kansas 2000 Select Committee of the House

FROM: Lawrence T. Buening, Jr. *LTB*  
Executive Director

DATE: February 15, 1999

RE: **House Bill No. 2389**

Mr. Chairman and members of the Committee, thank you for the opportunity to appear before you and present information on behalf of the Kansas State Board of Healing Arts in opposition to House Bill No. 2389. The Kansas State Board of Healing Arts does not oppose the purposes of this bill as stated in Section 1—"to eliminate overlapping, duplication of effort and use existing resources more efficiently". The Board fully supports any efforts that accomplish these goals. However, the Board believes that this bill accomplishes none of these purposes. Further, this bill does not merely transfer the current ministerial functions of the various boards listed in New Section 5 nor does it provide for an orderly transfer of powers, duties, and functions of those entities to the division of professional regulation with a minimum of disruption of governmental services and functions and with a minimum of expense. To the contrary, this bill transfers major policy making functions which are the current responsibility of the various entities listed in New Section 5 and attempts to do so in such a manner that literally scores of statutes will be left on the statute books in direct conflict with the provisions of this bill.

Neither the Board nor myself have previously had the opportunity of addressing this Committee. Representatives Horst and Carmody have been prior members of the House Committee on Health and Human Services where most legislation affecting the Board and the professions and individuals it regulates is assigned. Therefore, I would like to provide a brief background of the history of the Kansas State Board of Healing Arts.

LAWRENCE T. BUENING, JR.  
EXECUTIVE DIRECTOR

MEMBERS OF THE BOARD  
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TOPEKA  
DONALD B. BLETZ, M.D., VICE-PRESIDENT  
OVERLAND PARK

WILLIAM BRYANT, WASHINGTON  
JAMES D. EDWARDS, D.C., EMPORIA  
HOWARD D. ELLIS, M.D., LEAWOOD  
ROBERT L. FRAYSER, D.O., HOISINGTON  
JOHN P. GRAVINO, D.O., LAWRENCE  
JANA D. JONES, M.D., LANSING  
LANCE MALMSTROM, D.C., TOPEKA

LAUREL H. RICKARD, MEDICINE LODGE  
CHRISTOPHER P. RODGERS, M.D., HUTCHINSON  
HAROLD J. SAUDER, D.P.M., INDEPENDENCE  
EMILY TAYLOR, LAWRENCE  
HAI K. TRUONG, D.O., WICHITA  
ROGER D. WARREN, M.D., HANOVER

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The Kansas State Board of Healing Arts was created by the 1957 Legislature to regulate what became known as the three branches of the healing arts—medicine and surgery, osteopathic medicine and surgery and chiropractic. Prior to that time, these three professions had been regulated by three independent boards. Since 1957, the Board has been given eight additional professions to regulate. The individuals in these professions are podiatric doctors, physical therapists, physical therapist assistants, physicians' assistants, respiratory therapists, occupational therapists, occupational therapy assistants and athletic trainers. These amount to approximately one-third of the health care related professions currently regulated by some state agency. Currently, the Board regulates almost 16,000 individuals in these 11 professions.

The Health Care Reform Legislative Oversight Committee requested introduction of S.B. No. 109 which, as best I can determine, is identical to H.B. No. 2389. That Committee held limited hearings this past summer and fall on the issue of centralization and received no input from the various boards which would be transferred to the new division of professional regulation under this bill. However, it was very clear from the discussion of the Committee members that the express purpose of this bill is to leave the individual boards with the ability to regulate the individual professions, but transfer redundant and overlapping functions to a central agency. Therefore, the bill's intent is to transfer only ministerial functions but leave the regulation of the professions to the boards. Yet, New Section 3 transfers the agencies in their entirety to the newly-created division of professional regulation and, when complete, the agencies are to be administered under the direction of the director of professional regulation. All powers not specifically vested by statute are transferred to the director. No differentiation is made between those functions which are strictly ministerial and those which are not. The only functions specifically retained by the individual boards are the responsibility for approving initial and renewal of licenses and for final disciplinary actions (See New Section 4). The term "ministerial function" is not defined and, presumably, it is left to the director of the division to determine what this constitutes. However, the director is specifically given the authority over budgeting, purchasing, planning, management, hiring of staff, hiring of attorneys, contracting with attorneys, obtaining clerical and computer services, hiring of investigators, subpoenaing of witnesses, taking administrative and judicial action in violation of the various laws, obtaining injunctions and temporary restraining orders, setting the fees, approving examinations, dealing with disciplinary problems and taking possession and custody over all books and records. Furthermore, New Section 3 attempts to remove from each of the boards the power and authority to make rules and regulations. These functions are more than merely ministerial, but are the very tools necessary for agencies to perform their regulatory functions.

"Ministerial" is defined in The American Heritage Dictionary of the English Language as "[o]f or designating a mandatory act or duty admitting of no personal discretion or judgment in its performance". Most, if not all of the functions and authority given to the director of the division of professional regulation by this bill require discretion and judgment. Many require the technical expertise that form the basis for the current composition and membership of the various boards. Therefore, while this bill purports to deal with the transfer of only ministerial function, it has the effect of stripping the boards of virtually all of their powers and authority and vesting these in the hands of one individual.



The second stated purpose of this bill is to make an orderly transfer of the powers, duties and functions of the various health-related entities to the division of professional regulation with a minimum of expense and disruption of services. Pursuant to the provisions of the bill, it will become effective July 1, 1999. Yet, there has been no study made as to potential impact of the bill on either the fiscal or daily operations. New Section 2(c)(9) and (10) would appear to create the need for both increasing licensure fees and for expenditures from the state general fund. At present, each of the agencies contribute 20% of the funds they collect to the state general fund and utilize the remaining 80% to fund all of their operations. The changes made by this bill would enable the agencies to retain only 60% of their receipts as 20% would still be contributed to the state general fund and 20% would be paid to the director for the yearly costs of services performed by the division. Further, state general funds would then need to be appropriated for the remaining 80% of the costs incurred by the division in performing the services called for under the bill. Currently, most of the agencies affected by this bill are directly accountable to the Governor. The changes made by this bill would make these agencies accountable to the director of the division who is supervised by the Secretary of Health and Environment who is appointed by the Governor. Thus, an additional layer of government is created directly in contradiction to the purpose of eliminating duplication and creating more efficiency.

The third reason the Kansas State Board of Healing Arts is opposed to this bill is that it creates scores of discrepancies between the provisions of the bill and existing statutes which are not amended or repealed by the bill. For just the professions regulated by this Board at least 57 separate statutes would be left on the books in direct conflict with the provisions of this bill. At least 13 of these are under the healing arts act. These statutes include provisions mandating the board adopt rules and regulations establishing fees and for the short-term treatment of obesity. Other statutes specify that it is the Board's responsibility to issue subpoenas, to employ persons and agents, to make all necessary investigations and to be the custodian of books and records. Unless these discrepancies between the provisions of the bill and existing statutes are addressed, chaos will reign and nothing resembling an orderly transfer of powers, duties and functions can occur.

In conclusion, the Kansas State Board of Healing Arts is supportive of any efforts by the Health Care Reform Legislative Oversight Committee, this Committee and the Legislature to improve governmental efficiency and elimination of unnecessary duplication and costs. However, the provisions of H.B. No. 2389 simply do not accomplish these purposes. As the agency which already regulates 11 health care professions, the Kansas State Board of Healing Arts stands ready to provide information and expertise to assist the Legislature in taking any steps required to increase efficiency and reduce costs in the regulation of health care professions as we prepare to enter the new millennium.

Thank you for giving me the opportunity to appear before you. I would be happy to respond to any questions.



Date: February 15, 1999

To: Kansas 2000 Select Committee

From: Kevin J. Robertson, CAE  
Executive Director

**RE: HB 2389, Creating the Division of Professional Regulation**

Representative Wilk and members of the Kansas 2000 Select Committee, I am Kevin Robertson Executive Director of the Kansas Dental Association, which consists of approximately 1,000 members, or 80% of Kansas' practicing dentists.

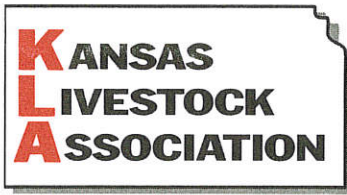
I am here today to testify in opposition to HB 2389. The KDA's opposition to this bill is due to the provisions which specifically remove rule and regulation authority from the Board and transforms the Dental Board into an advisory Board with regard to rules and regulations.

The KDA simply believes the Dental Board should maintain the authority to promulgate rules and regulations on behalf of dentistry. I would ask the Committee to address this provision, or, report the bill unfavorably.

Thank you for the opportunity to appear before you today, If you have any questions I will be happy to answer them at this time.

5200 Huntoon  
Topeka, Kansas 66604-2398  
785-272-7360

Kansas 2000 Select Committee  
Meeting Date 2-15-99  
Attachment 13



*Since 1894*

To: Kansas 2000 Select Committee  
Representative Kenny Wilk, Chairman

From: Mike Beam, Executive Secretary, Cow-Calf/Stocker Division

Subject: **HB 2389** - Creation of a Division of Professional Regulation

Thank you for allowing the Kansas Livestock Association (KLA) the opportunity to express our concerns with specific provisions of HB 2389. At this time, KLA has no position regarding the reorganization of the various health and professional regulatory agencies as listed in New Section 5 of the bill. Our concerns are the changes proposed to the regulatory authority of the Board of Veterinary Examiners.

Numbers (6) and (8), of subsection (c) on page 2, gives the new super agency the power to subpoena witnesses, obtain records, seek injunctions and issue restraining orders. I'm sure this authority is consistent with most regulatory agencies. This authority, however, has not been a part of the statutes in the Veterinary Practice Act.

KLA has reached an agreement with the Kansas Board of Veterinary Examiners and the Kansas Veterinary Medical Association (KVMA) on pending legislation (SB 145), giving the Veterinary Examiners similar powers included in subsection (c). At our request, the Board of Veterinary Examiners has limited these subpoena powers and injunctive authorities to Veterinarians. We do not object to the bill that is making its way through the Senate. The very issues we opposed in the original draft of that bill is now before this committee in HB 2389.

On occasion there can be a conflict between the views of the agency regulating veterinary medicine and livestock producers conducting modern and technical animal husbandry practices. The legal definition of the practice of veterinary medicine has not been updated to reflect changes the livestock industry has made in the last twenty years. Consequently, our members are leery of a agency with increased authority to intrude on their livelihood.

We are in the process of working with the Board of Examiners to update the statutes for consideration next year. Until some of these issues are resolved we prefer the Board of Veterinary Examiners not have increased powers over everyone involved in the large animal industry.

KLA respectfully asks this committee to not advance the bill, pull the Board of Veterinary Examiners from the list on page 4, or restrict the regulatory authorities in New Section 2.

I would be happy to respond to any questions or comments from committee members. Thank you.

Kansas 2000 Select Committee

Meeting Date 2-15-99

Attachment 14