

Approved: February 22, 2000  
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 10, 2000 in Room 313-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Kansas Legislative Research Department  
Dr. Bill Wolff, Kansas Legislative Research Department  
Norman Furse, Revisor of Statute's Office  
June Evans, Secretary

Conferees appearing before the committee: Mary Blubaugh, Executive Administrator, State Board of Nursing  
Terry Roberts, Executive Director, Kansas State Nurses Association

Others attending: See Attached Sheet

The Chairperson opened the hearing on **HB 2169 - Concerning Health Care Professionals; Relating to Nurses and Mental Health Technicians.**

Staff gave a briefing stating the bill amends all three of the Acts of Board of Nursing. This is a carryover bill from the 98 session so if it were moved out of committee it would have to be updated.

Representative Bethell asked if they could currently tell an individual who fails the boards what areas they failed in?

Staff stated that information was available on the examination profile.

Representative Bethell asked on page 9, lines 16 & 17, establishes sufficient rehabilitation to warrant the public trust. Is what's "sufficient rehabilitation" defined anywhere?

Staff replied, no. It is just as it is for all other boards. This involves being guilty of a felony or misdemeanor involving an illegal drug offense. On line 18 there is an absolute prohibition against the individual being licensed.

Representative Bethell asked what are some of the crimes on page 20, lines 13 and 14, "a crime affecting family relationships and children"?

Staff stated one of them might be unlawful taking a child, crimes involving children, encouraging a child to commit a felony, aggravated abandonment of a child, and aggravated incest.

Representative Bethell asked if adultery were included because that would affect family?

Staff stated that would be included in another Section.

Representative Showalker stated "written" should be changed to "computerized" on page 2, line 4.

Representative Storm questioned the differences between "approved" and "accredited". Have we changed to approve because that reflects the practice or have the terms just been changed? It would be interesting to know if there are schools that are not accredited that are approved.

Staff stated the Board has always approved Schools of Nursing. The practical application, even under the

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 313-S of the Capitol at 1:30 p.m. on February 10, 2000.

existing language, which is accredited, someone has to be a graduate of a school that qualifies him or her to technically be licensed. Accreditation is a voluntary decision on the part of the school.

Representative Bethel said he would like to bring attention to a couple of items which is: encouraging a minor to commit a traffic infraction and non-support of a child or spouse. If do not pay child support or alimony or if sitting in car with child and in a hurry and say, speed it up, and the child does, and pulled over for speeding, a nurse could lose their license.

Staff stated that was correct.

Mary Blubaugh, Executive Director, Kansas State Board of Nursing, testified in support of **HB 2169**, and offered some amendments. Accreditation means "recognition of an institution of learning as maintaining prescribed standards requisite for its graduates to gain admission to other reputable institutions of higher learning or to achieve credentials for professional practice" and approval is defined as "official or formal consent, confirmation or sanction". Accreditation is voluntary. This change is made throughout the bill.

Ms. Blubaugh answered a question asked earlier - if a student does not take the exam within 24 months of completion of course they have to petition the Board and possibly have to submit a study plan before the Board permits them to take the exam. The examinations are computer assisted and students may take the exam 8 times in 24 months (See Attachments #1 & 2).

Representative Storm asked how many Schools of Nursing were in the state? 49

Representative Storm asked if any of those were not accredited? 7 or 8 - they are approved.

Representative Storm asked if any of the accredited schools were not approved? No - they are all approved but not all accredited. That is correct.

Representative Bethel stated the language in the prohibition concerned him because of the broadness of the language would like to know how the Board of Nursing plans to enforce that. Do you have the staff to search out these records as they are adjudicated, how are you going to do that?

Ms. Blubaugh answered on the renewal form there is a question asking if there has been a felony conviction and if they answer they have had a felony conviction, they have to attach the court records to the renewal form. We do trust what they tell us and if we find out otherwise then we take it to legal.

It was asked how many programs are not accredited? Seven or eight LPN programs are not accredited, all registered nurse programs are accredited.

The Chairperson asked, in the event a person was charged with a felony and plea bargained down to a misdemeanor, would you touch that in any way, shape or form?

The Attorney General would have us look at the underlying behavior as a pattern of practice.

Terry Roberts, Kansas State Nurses Association, testified in support of **HB 2169**, with proposed revisions: change the term "accreditation" to "approval" throughout all sections addressing school of nursing, provide greater clarity to when licensees must take the licensure exam and the remedies for repeated failure, update language of resurvey process, provide greater clarification for permitting RN's enrolled in schools for advanced practice nursing outside Kansas to engage in advanced practice nursing in the state during the clinical component of their respective program and for graduate nurses to practice nursing for 120 days, versus the current 90 days, pending the results of their first licensure exam, and provide flexibility to RN's completing Registered Nurse Anesthetists (RNA refresher courses, so that they are not limited to 120 days for completing the course for return to practice (See Attachment #3).

Representative Geringer recommended using "may" not "shall".

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 313-S of the Capitol at 1:30 p.m. on February 10, 2000.

Ms. Roberts said nurses that fail the R.N. examination are encouraged to work as LPNs as they pass the exam faster than those not working in the field.

The Chairperson closed the hearing on **HB2169**.

The meeting adjourned at 3:05 p.m. and the next meeting will be February 14.

## HEALTH AND HUMAN SERVICES

DATE February 10, 2000

NAME	REPRESENTING
Pat McEllip	KSBW
Janette Pucci	KSBW
Diane Okeson	KSBW
Diane Reed	KSBW
Alicia Lynn	KSBW
Jane Conroy	KSBW
Mary Bludwig	KSBW
Theresa K Lewis	KSNA (NCCC)
Amy Harvey	KSNA
Jan Church	KSNA
Patricia Sewers	KSNA
Donna Hellum	ADAN (KSNA)
Jeff Barker	KONC
Deborah Keener	KSNA (FHSU)
Janette Pucci	KSBW
Sally Schmidt	KSNA (FHSU)
Lori Williams	BCCC, SN
Mary Westbrook	BCCC NS
Carolyn Durham	BCCC NS
Donna Beach	NCCC NS
Monica Solomon	NCCC SN
Heather Severt	nccc, sn
Doris Swett	NCCC, SN
Jana Jucker	NCCC, SN
P. Lynn A. Schomper	NCCC-SN
John Wick	KSNA (FHSU)
Shelley Bell	KSNA FSCC SN
Mary Tinsley	KSNA
John Thomas	KSNA
Karen Gilpin	KSBW
Verda Deebert	KSNA / Bethel College
Ocedia Steele	Washburn Social work student
Tracy Walter	Washburn - social work student

HEALTH AND HUMAN SERVICES

DATE 2-10-00

NAME	REPRESENTING
Sharon Sprenkel	KSNA
Julia Johnson	KSNA
Jessie Phinney	KSNA FHSU
Carie Forsee	KSNA FHSU
Wancy Gost	KSNA FHSU
Nayan Kagsdale	KSNA FHSU
Janette Ellis	
Dickie James	
Dawn Wastoo	BCCU KSNA
Angela D. Williams	KU SON
Maria Canala	Avila
Jennifer Forreis	Avila
Laura Welch	Avila
Demetra Gulau	Avila
Susan Jetsch	Avila
Jennifer Gaines	BCCU SN
Stacey Warneke	Avila
Pam Foti	"
Shannon Kelley	"
Vary Powell	BUSN
Isam Nelson	BUSN
Alexon Burke	NS PSU
Joanna Walker	PSU
Kelly Krentz	Washburn
Allison Munkin	Washburn
Amanda Graves	Fort Hays State University
Stacy Schultz	" "
Sharon Herrman	" "
Mindy Perkins	BCCU SN
Dawn Wolfe	BCCU NS



# Kansas State Board of Nursing



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Disciplinary Counsel  
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TO: Representative Gary Boston Chairperson  
And Members of the Health and Human Services Committee

FROM: Mary Blubaugh, MSN, RN  
Executive Administrator  
Kansas State Board of Nursing

DATE: February 10, 2000

RE: HB 2169

Good afternoon Mr. Chairman and members of the committee. Thank you for the opportunity to appear before you today to discuss HB 2169.

My name is Mary Blubaugh and I am the Executive Administrator of the State Board of Nursing. While I am very new to the agency, discussions with KSBN staff and board members have enlightened my understanding of HB 2169.

With me today is Diane Glynn, Practice Specialist and Janette Pucci, Education Specialist to assist me with any questions.

H&HS  
2-10-2000  
Atch #1

# HOUSE BILL No. 2169

By Committee on Health and Human Services

1-28

9 AN ACT concerning health care professionals; relating to nurses and  
 10 mental health technicians; approved education; licensure by Kansas  
 11 state board of nursing; crimes and expungements, fees; amending  
 12 K.S.A. 65-1133 and K.S.A. 1998 Supp. 65-1115, 65-1116, 65-1118a,  
 13 65-1119, 65-1120, 65-1122, 65-1124, 65-1136, 65-1152, 65-1153, 65-  
 14 1163, 65-4203, 65-4209 and 74-1106 and repealing the existing  
 15 sections.

16  
17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. K.S.A. 1998 Supp. 65-1115 is hereby amended to read as  
19 follows: 65-1115. (a) *Qualifications of applicants.* An applicant for a li-  
20 cense to practice as a registered professional nurse shall:

21 (1) Have graduated from a high school accredited by the appropriate  
22 legal accrediting agency or has obtained the equivalent of a high school  
23 education, as determined by the state department of education;

24 (2) ~~hold evidence of graduation~~ *have graduated* from an ~~accredited~~  
25 *approved* school of professional nursing in the United States or its terri-  
26 tories or from a school of professional nursing in a foreign country which  
27 is approved by the board as defined in rules and regulations;

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

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

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

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

42 A) *Met the qualifcatons set forth in subsections (a) and (b);*

43 (B) *passed a written examination as prescribed by the board; and*

Based on National Council of State Boards of Nursing position paper, the Board elected to change all "accreditations" to "approvals" in relation to review of schools or programs of nursing. (See Attachment A)

Accreditation means "the official authorization or status granted by an agency other than a state board of nursing". Accreditation is voluntary, conducted by peers and focuses on program excellence.

Approval is carried out by governmental agencies and is mandatory for operation of the program.

This change is made in most of the other sections of the bill.

Section 1 (c) was re-written to delineate the requirements an applicant has to meet to be licensed. Previous interpretation only required a person to pass an examination approved by the Board. Legal staff suggested clarification.

Same language page 4, lines 3-6 for practical nurses, page 18, lines 29-33 for mental health technicians.



3  
1

1 (C) no disqualifying factors under K.S.A. 1998 Supp. 65-1120 and  
2 amendments thereto.

3 (2) The board may issue a license to practice nursing as a registered  
4 professional nurse to an applicant who has been duly licensed as a reg-  
5 istered professional nurse by examination under the laws of another state  
6 or territory if, in the opinion of the board, the applicant meets the qual-  
7 ifications required of a registered professional in this state. Verification  
8 of the applicant's licensure status shall be required from the original state  
9 of licensure.

10 (3) *Refresher course.* Notwithstanding the provisions of subsections  
11 (a) and (b), an applicant for a license to practice as a registered profes-  
12 sional nurse who has not been licensed to practice professional nursing  
13 for five years preceding application shall be required to successfully com-  
14 plete a refresher course as defined by the board.

15 (4) *Renewal license.* A licensed professional nurse licensed under this  
16 act shall be eligible for renewal licenses upon compliance with K.S.A. 65-  
17 1117 and amendments thereto.

18 (5) ~~Repeated examination failure.~~ *Licensure examination within 24*  
19 *months of graduation.* (A) Persons who ~~are unsuccessful in passing~~ do not  
20 take the licensure examination within 24 months after graduation shall  
21 petition the board for permission prior to ~~subsequent attempts taking the~~  
22 *licensure examination.* The board may require the applicant to submit  
23 and complete a plan of study related to ~~deficiencies identified on the~~  
24 *failed examination profiles prior to taking the licensure examination a*  
25 *subsequent time prior to taking the licensure examination.*

26 (B) *Persons who are unsuccessful in passing the licensure examination*  
27 *within 24 months after graduation shall petition the board for permission*  
28 *prior to subsequent attempts. The board may require the applicant to*  
29 *submit and complete a plan of study prior to taking the licensure exami-*  
30 *nation a subsequent time. The study plan shall contain subjects related to*  
31 *deficiencies identified on the failed examination profiles.*

32 (6) An application for initial licensure or endorsement will be held  
33 awaiting completion of meeting qualifications for a time period specified  
34 in rules and regulations.

35 (d) *Title and abbreviation.* Any person who holds a license to practice  
36 as a registered professional nurse in this state shall have the right to use  
37 the title, "registered nurse," and the abbreviation, "R.N." No other per-  
38 son shall assume the title or use the abbreviation or any other words,  
39 letters, signs or figures to indicate that the person is a registered profes-  
40 sional nurse.

41 (e) *Temporary permit.* The board may issue a temporary permit to  
42 practice nursing as a registered professional nurse for a period not to  
43 exceed 120 days. A temporary permit for 120 days may be issued to an

(5) (A)

For professional and practical nurses, and mental health technicians, language was added so that in the case an applicant does not take the licensure examination within 24 months of completion, then he/she will have to petition the Board and possibly have to submit a study plan before the Board permits the applicant to take the exam. This provision assists the candidate to pass the exam as well as assuring competent licensees.

(5) (B) is the revision of (A) and provides the same requirement for the applicant who does not pass the licensure exam within 24 months.

Page 4, lines 20-33 for practical nurses, page 18, lines 34-43 and page 19, lines 1-2 for mental health technicians.

1-3

1 applicant for licensure as a registered professional nurse who is a graduate  
2 of a professional school of nursing in a foreign country after verification  
3 of licensure in that foreign country and approval of educational  
4 credentials.

5 (f) *Exempt license.* The board may issue an exempt license to any  
6 licensee as defined in rules and regulations who makes written application  
7 for such license on a form provided by the board and remits a fee as  
8 established pursuant to K.S.A. 65-1118 and amendments thereto. The  
9 board may issue an exempt license to a person who is not regularly en-  
10 gaged in the practice of professional nursing in Kansas but is a charitable  
11 health care provider as defined by K.S.A. 75-6102 and amendments  
12 thereto. Each exempt licensee shall be subject to all provisions of the  
13 nurse practice act, except as otherwise provided in this subsection (f).  
14 Each exempt license may be renewed biennially subject to the provisions  
15 of this section. The holder of the exempt license shall not be required to  
16 submit evidence of satisfactory completion of a program of continuing  
17 nursing education for renewal. To convert an exempt license to an active  
18 license, the exempt licensee shall meet all the requirements of subsection  
19 (c) or K.S.A. 65-1117 and amendments thereto. The board shall have  
20 authority to write rules and regulations to carry out the provisions of this  
21 section.

22 Sec. 2. K.S.A. 1998 Supp. 65-1116 is hereby amended to read as  
23 follows: 65-1116. (a) *Qualification.* An applicant for a license to practice  
24 as a licensed practical nurse shall:

25 (1) Have graduated from a high school accredited by the appropriate  
26 legal accrediting agency or has obtained the equivalent of a high school  
27 education, as determined by the state department of education;

28 (2) ~~hold evidence of graduation~~ *have graduated* from an ~~accredited~~  
29 *approved* school of practical nursing or professional nursing in the United  
30 States or its territories or from a school of practical nursing or professional  
31 nursing in a foreign country which is approved by the board as defined  
32 in rules and regulations;

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

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

36 (b) If the board finds in evaluating any applicant that such applicant  
37 is deficient in qualification or in the quality of such applicant's educational  
38 experience, the board may require such applicant to fulfill such remedial  
39 or other requirements as the board may prescribe.

40 (c) *License.* (1) ~~Examination.~~ *The applicant shall pass an examination*  
41 ~~as the board may prescribe. Each examination may be supplemented by~~  
42 ~~an oral or practical examination. Upon successfully passing such exami-~~  
43 ~~nations, the board shall issue to the applicant a license to practice as a~~

1 ~~licensed practical nurse.~~ *The board shall issue a license to an applicant to*  
2 *practice as a practical nurse who has:*

- 3 (A) *Met the qualifications set forth in subsection (a) and (b);*  
4 (B) *passed a written examination as prescribed by the board; and*  
5 (C) *no disqualifying factors under K.S.A. 1998 Supp. 65-1120.*

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

12 (3) *Refresher course.* Notwithstanding the provisions of subsections  
13 (a) and (b), an applicant for a license to practice as a licensed practical  
14 nurse who has not been licensed to practice practical nursing for five  
15 years preceding application shall be required to successfully complete a  
16 refresher course as defined by the board.

17 (4) *Renewal license.* A licensed practical nurse licensed under this act  
18 shall be eligible for renewal licenses upon compliance with K.S.A. 65-  
19 1117 and amendments thereto.

20 (5) ~~Repeated examination failure.~~ *Licensure examination within 24*  
21 *months of graduation.* (A) ~~Persons who are unsuccessful in passing do~~  
22 ~~not take the licensure examination within 24 months after graduation shall~~  
23 ~~petition the board for permission prior to subsequent attempts taking the~~  
24 ~~licensure examination.~~ The board may require the applicant to submit  
25 and complete a plan of study ~~related to deficiencies identified on the~~  
26 ~~failed examination profiles prior to taking the licensure examination for~~  
27 ~~a subsequent time.~~ *prior to taking the licensure examination.*

28 (B) *Persons who are unsuccessful in passing the licensure examination*  
29 *within 24 months after graduation shall petition the board for permission*  
30 *prior to subsequent attempts. The board may require the applicant to*  
31 *submit and complete a plan of study prior to taking the licensure exami-*  
32 *nation a subsequent time. The study plan shall contain subjects related to*  
33 *deficiencies identified on the failed examination profiles.*

34 (6) An application for initial licensure or endorsement will be held  
35 awaiting completion of meeting qualifications for a time period specified  
36 in rules and regulations.

37 (d) *Title and abbreviation.* Any person who holds a license to practice  
38 as a licensed practical nurse in this state shall have the right to use the  
39 title, "licensed practical nurse," and the abbreviation, "L.P.N." No other  
40 person shall assume the title or use the abbreviation or any other words,  
41 letters, signs or figures to indicate that the person is a licensed practical  
42 nurse.

43 (e) *Temporary permit.* The board may issue a temporary permit to

9-1

1 practice nursing as a licensed practical nurse for a period not to exceed  
2 120 days. A temporary permit for 120 days may be issued to an applicant  
3 for licensure as a licensed practical nurse who is a graduate of a practical  
4 school of nursing in a foreign country after verification of licensure in  
5 that foreign country and approval of educational credentials.

6 (f) *Exempt license.* The board may issue an exempt license to any  
7 licensee as defined in rules and regulations who makes written application  
8 for such license on a form provided by the board and remits a fee as  
9 established pursuant to K.S.A. 65-1118 and amendments thereto. The  
10 board may issue an exempt license to a person who is not regularly en-  
11 gaged in the practice of practical nursing in Kansas but is a charitable  
12 health care provider as defined by K.S.A. 75-6102 and amendments  
13 thereto. Each exempt licensee shall be subject to all provisions of the  
14 nurse practice act, except as otherwise provided in this subsection (f).  
15 Each exempt license may be renewed biennially subject to the provisions  
16 of this section. The holder of the exempt license shall not be required to  
17 submit evidence of satisfactory completion of a program of continuing  
18 nursing education for renewal. To convert an exempt license to an active  
19 license, the exempt licensee shall meet all the requirements of subsection  
20 (c) or K.S.A. 65-1117 and amendments thereto. The board shall have  
21 authority to write rules and regulations to carry out the provisions of this  
22 section.

23 Sec. 3. K.S.A. 1998 Supp. 65-1118a is hereby amended to read as  
24 follows: 65-1118a. (a) The board shall collect fees provided for in this act  
25 as fixed by the board, but not exceeding:

26	Application for <del>accreditation</del> approval—schools and programs of nursing .....	\$1,000
27	Annual fee of <del>accreditation</del> approval—schools and programs of nursing .....	400
28	Application for approval of continuing education providers .....	200
29	Annual fee for continuing nursing education providers .....	75
30	Approval of single continuing nursing education offerings .....	100
31	Consultation by request, not to exceed per day on site .....	400

32 (b) In addition to the above prescribed fees, consultants' travel ex-  
33 penses shall be charged to the person, firm, corporation or institution  
34 requesting consultation services to be provided by the board.

35 Sec. 4. K.S.A. 1998 Supp. 65-1119 is hereby amended to read as  
36 follows: 65-1119. (a) *Application for ~~accreditation~~ approval.* An accred-  
37 ited school of nursing is one which has been approved as such by the  
38 board as meeting the standards of this act, and the rules and regulations  
39 of the board. An institution desiring to conduct an ~~accredited~~ *approved*  
40 school of professional or practical nursing shall apply to the board for  
41 ~~accreditation~~ *approval* and submit satisfactory proof that it is prepared to  
42 and will maintain the standards and basic professional nursing curriculum  
43 or the required curriculum for practical nursing, as the case may be, as

Program of nursing was added in this fee statute since the Board also approves advanced registered nurse practitioner programs of study.

Added "nursing" to be consistent with statutory language in K.S.A. 65-1119 on continuing nursing education.

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1 prescribed by this act and by the rules and regulations of the board.  
 2 Applications shall be made in writing on forms supplied by the board and  
 3 shall be submitted to the board together with the application fee fixed by  
 4 the board. The ~~accreditation approval~~ of a school of nursing shall ~~expire~~  
 5 ~~five not exceed 10 years~~ after the granting of such ~~accreditation approval~~  
 6 by the board. An institution desiring to continue to conduct an ~~accredited~~  
 7 ~~approved~~ school of professional or practical nursing shall apply to the  
 8 board for the renewal of ~~accreditation approval~~ and submit satisfactory  
 9 proof that it will maintain the standards and basic professional nursing  
 10 curriculum or the required curriculum for practical nursing, as the case  
 11 may be, as prescribed by this act and by the rules and regulations of the  
 12 board. Applications for renewal of ~~accreditation approval~~ shall be made  
 13 in writing on forms supplied by the board. Each school of nursing shall  
 14 submit annually to the board an annual fee fixed by the board by rules  
 15 and regulations to maintain the ~~accreditation approval~~ status.

16 (b) *Schools for professional nurses.* To qualify as an ~~accredited ap-~~  
 17 ~~proved~~ school for professional nurses, the school must be conducted in  
 18 the state of Kansas, and shall apply to the board and submit evidence  
 19 that: (1) It is prepared to carry out the professional curriculum as pre-  
 20 scribed in the rules and regulations of the board; and (2) it is prepared  
 21 to meet such other standards as shall be established by this law and the  
 22 rules and regulations of the board.

23 (c) *Schools for practical nurses.* To qualify as an ~~accredited approved~~  
 24 school for practical nurses, the school must be conducted in the state of  
 25 Kansas, and shall apply to the board and submit evidence that: (1) It is  
 26 prepared to carry out the curriculum as prescribed in the rules and reg-  
 27 ulations of the board; and (2) it is prepared to meet such other standards  
 28 as shall be established by this law and the rules and regulations of the  
 29 board.

30 (d) *Survey.* The board shall prepare and maintain a list of ~~accredited~~  
 31 ~~approved~~ schools for both professional and practical nurses whose gradu-  
 32 uates, if they have the other necessary qualifications provided in this act,  
 33 shall be eligible to apply for a license as a registered professional nurse  
 34 or as a licensed practical nurse. A survey of the institution or institutions  
 35 and of the schools applying for accreditation shall be made by an author-  
 36 ized employee of the board or members of the board, who shall submit  
 37 a written report of the survey to the board. If, in the opinion of the board,  
 38 the requirements as prescribed by the board in its rules and regulations  
 39 for an ~~accredited approved~~ school for professional nurses or for practical  
 40 nurses are met, it shall so approve ~~and accredit~~ the school as either a  
 41 school for professional nurses or practical nurses, as the case may be.  
 42 ~~From time to time, as deemed necessary by the board, it shall cause to~~  
 43 ~~be made a resurvey of accredited schools and written reports of such~~

The board changed the number of years of approval of a school of nursing from five to ten. This is in response to another section of the bill that allows the Board to accept the accreditation from other credentialing bodies as approval of the school of nursing. Some of those accreditation periods are up to ten years.

Same language on page 13, lines 41-42 for advanced registered nurse practitioners.

1 ~~resurveys submitted to the board.~~ *The board shall resurvey approved*  
2 *schools on a periodic basis as determined by rules and regulations.* If the  
3 board determines that any ~~accredited~~ *approved* school of nursing is not  
4 maintaining the standards required by this act and by rules and regula-  
5 tions prescribed by the board, notice thereof in writing, specifying the  
6 failures of such school, shall be given immediately to the school. A school  
7 which fails to correct such conditions to the satisfaction of the board  
8 within a reasonable time shall be removed from the list of ~~accredited~~  
9 *approved* schools of nursing until such time as the school shall comply  
10 with the standards. All ~~accredited~~ *approved* schools shall maintain accu-  
11 rate and current records showing in full the theoretical and practical  
12 courses given to each student.

13 (e) *Providers of continuing nursing education.* (1) To qualify as an  
14 approved provider of continuing nursing education offerings, persons,  
15 organizations or institutions proposing to provide such continuing nursing  
16 education offerings shall apply to the board for approval and submit ev-  
17 idence that the applicant is prepared to meet the standards and require-  
18 ments established by the rules and regulations of the board for such con-  
19 tinuing nursing education offerings. Initial applications shall be made in  
20 writing on forms supplied by the board and shall be submitted to the  
21 board together with the application fee fixed by the board.

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

33 (3) Qualification as an approved provider of a single continuing nurs-  
34 ing education offering, which may be offered once or multiple times, shall  
35 expire two years after the granting of such approval by the board. Ap-  
36 proved single continuing nursing education providers shall not be subject  
37 to an annual fee or annual report.

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

41 (5) The board shall accept offerings as approved continuing nursing  
42 education presented by: Colleges that are approved by a state or the  
43

8-1  
The Board updates the language on resurvey of schools.  
Directly states that the Board will resurvey schools of nursing  
on a periodic basis. Putting the time sequence in rules and  
regulations provides for flexibility.

Same changes are made for the advanced registered nurse  
practitioner, page 14, lines 6-10 and lines 32-34.

1 national department of education and providers approved by other state  
 2 boards of nursing, the national league for nursing, the national federation  
 3 of licensed practical nurses, the American nurses credentialing center or  
 4 other such national organizations as listed in rules and regulations adopted  
 5 by the board.

6 (6) An individual designated by a provider of continuing nursing ed-  
 7 ucation offerings as an individual responsible for CNE who has held this  
 8 position for the provider at least five years immediately prior to January  
 9 1, 1997, shall not be required to have a baccalaureate or higher academic  
 10 degree in order to be designated by such provider as the individual re-  
 11 sponsible for CNE.

12 (f) *Criteria for evaluating out-of-state schools.* For the purpose of  
 13 determining whether an applicant for licensure who is a graduate of a  
 14 school of professional or practical nursing located outside this state meets  
 15 the requirements of item (2) of subsection (a) of K.S.A. 65-1115 and  
 16 amendments thereto or the requirements of item (2) of subsection (a) of  
 17 K.S.A. 65-1116 and amendments thereto, as appropriate, the board by  
 18 rules and regulations shall establish criteria for determining whether a  
 19 particular school of professional nursing located outside this state main-  
 20 tains standards which are at least equal to schools of professional nursing  
 21 which are ~~accredited~~ *approved* by the board and whether a particular  
 22 school of practical nursing located outside this state maintains standards  
 23 which are at least equal to schools of practical nursing which are ~~accred-~~  
 24 ~~ited~~ *approved* by the board. The board may send a questionnaire devel-  
 25 oped by the board to any school of professional or practical nursing lo-  
 26 cated outside this state for which the board does not have sufficient  
 27 information to determine whether the school meets the standards estab-  
 28 lished under this subsection (f). The questionnaire providing the neces-  
 29 sary information shall be completed and returned to the board in order  
 30 for the school to be considered for approval. The board may contract with  
 31 investigative agencies, commissions or consultants to assist the board in  
 32 obtaining information about schools. In entering such contracts the au-  
 33 thority to approve schools shall remain solely with the board.

34 (g) *The board may accept nationally accredited schools of nursing.*

35 (1) *Schools of nursing which have received accreditation from a board*  
 36 *recognized national nursing accreditation agency shall file evidence of*  
 37 *initial accreditation with the board and shall file all reports from the*  
 38 *accrediting agency and any notice of any change in school accreditation*  
 39 *status. The board may grant approval based upon evidence of such*  
 40 *accreditation.*

41 (2) *Schools of nursing holding approval based upon national accred-*  
 42 *itation are also responsible for complying with all other requirements as*  
 43 *determined by rules and regulations of the board.*

6-1

New subsection (g) will allow the Board to review school accreditation by a nationally recognized nursing accreditation agency and not duplicate the same process for the school through survey by the Board. If there are other Board requirements different from the national accreditation, then the school would also have to comply with them.

6-9

Same language added for the ARNP programs, page 14, line 43, and page 15, lines 1-14.

1 (3) *The board may grant approval to a school of nursing with national*  
 2 *accreditation for a continuing period not to exceed 10 years.*

3 Sec. 5. K.S.A. 1998 Supp. 65-1120 is hereby amended to read as  
 4 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may  
 5 deny, revoke, limit or suspend any license, certificate of qualification or  
 6 authorization to practice nursing as a registered professional nurse, as a  
 7 licensed practical nurse, as an advanced registered nurse practitioner or  
 8 as a registered nurse anesthetist that is issued by the board or applied for  
 9 under this act or may publicly or privately censure a licensee or holder  
 10 of a certificate of qualification or authorization, if the applicant, licensee  
 11 or holder of a certificate of qualification or authorization is found after  
 12 hearing;

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

15 (2) to have been guilty of a felony or to have been guilty of a mis-  
 16 demeanor involving an illegal drug offense unless the applicant or licensee  
 17 establishes sufficient rehabilitation to warrant the public trust, except that  
 18 notwithstanding K.S.A. 74-120 no license, certificate of qualification or  
 19 authorization to practice nursing as a licensed professional nurse, as a  
 20 licensed practical nurse, as an advanced registered nurse practitioner or  
 21 registered nurse anesthetist shall be granted *or renewed* to a person with  
 22 a felony conviction for a crime against persons, *a sex offense or a crime*  
 23 *affecting family relationships and children* as specified in ~~article~~ *articles*  
 24 34, 35 and 36 of chapter 21 of the Kansas Statutes Annotated and acts  
 25 amendatory thereof or supplemental thereto *or similar laws of another*  
 26 *jurisdiction*;

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

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

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

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

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

39 (8) to have a license to practice nursing as a registered nurse or as a  
 40 practical nurse denied, revoked, limited or suspended, or to be publicly  
 41 or privately censured, by a licensing authority of another state, agency of  
 42 the United States government, territory of the United States or country  
 43 or to have other disciplinary action taken against the applicant or licensee

“Renewal” clarifies that if an individual commits a felony during a licensure period, then at the next renewal the license will not be renewed.

This was added due to an Attorney General opinion.  
 (See Attachment B)

The Board believes someone convicted of a sex offense listed in article 35 should not have a nursing license. (See Attachment C for a list of the crimes) Nurses work in close, personal contact with their clients. They care for the young and the very old in all types of settings including the client’s home. The question the Board asks, “Would you like a nurse with these felony convictions taking care of your grandmother or your child?”

Language was added to clarify that if someone were convicted of a similar crime in another state then prohibition of a nursing license would still apply.

The same changes were made in section 14 for mental health technicians, page 20, lines 12-16.



1 by a licensing authority of another state, agency of the United States  
2 government, territory of the United States or country. A certified copy of  
3 the record or order of public or private censure, denial, suspension, lim-  
4 itation, revocation or other disciplinary action of the licensing authority  
5 of another state, agency of the United States government, territory of the  
6 United States or country shall constitute prima facie evidence of such a  
7 fact for purposes of this paragraph (8); or

8 (9) to have assisted suicide in violation of K.S.A. 21-3406 and amend-  
9 ments thereto as established by any of the following:

10 (A) A copy of the record of criminal conviction or plea of guilty for a  
11 felony in violation of K.S.A. 21-3406 and amendments thereto.

12 (B) A copy of the record of a judgment of contempt of court for  
13 violating an injunction issued under K.S.A. 1998 Supp. 60-4404 and  
14 amendments thereto.

15 (C) A copy of the record of a judgment assessing damages under  
16 K.S.A. 1998 Supp. 60-4405 and amendments thereto.

17 (b) *Proceedings.* Upon filing of a sworn complaint with the board  
18 charging a person with having been guilty of any of the unlawful practices  
19 specified in subsection (a), two or more members of the board shall in-  
20 vestigate the charges, or the board may designate and authorize an em-  
21 ployee or employees of the board to conduct an investigation. After in-  
22 vestigation, the board may institute charges. If an investigation, in the  
23 opinion of the board, reveals reasonable grounds for believing the appli-  
24 cant or licensee is guilty of the charges, the board shall fix a time and  
25 place for proceedings, which shall be conducted in accordance with the  
26 provisions of the Kansas administrative procedure act.

27 (c) *Witnesses.* No person shall be excused from testifying in any pro-  
28 ceedings before the board under this act or in any civil proceedings under  
29 this act before a court of competent jurisdiction on the ground that such  
30 testimony may incriminate the person testifying, but such testimony shall  
31 not be used against the person for the prosecution of any crime under  
32 the laws of this state except the crime of perjury as defined in K.S.A. 21-  
33 3805 and amendments thereto.

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

1-12

1 the board of nursing fee fund.

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

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

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

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

12 (f) *Criminal justice information.* The board upon request shall receive  
13 and use from the Kansas bureau of investigation such criminal history  
14 record information relating to arrests and, criminal convictions, *expun-*  
15 *gements and diversions* as necessary for the purpose of determining initial  
16 and continuing qualifications of licensees of and applicants for licensure  
17 by the board. *The board may also have access and use of all other criminal*  
18 *justice information that may be available from other state and federal*  
19 *sources unless otherwise prohibited by law.*

20 Sec. 6. K.S.A. 1998 Supp. 65-1122 is hereby amended to read as  
21 follows: 65-1122. It is a violation of law for any person, firm, corporation  
22 or association to:

23 (a) Sell or fraudulently obtain or furnish any nursing diploma, license,  
24 record or certificate of qualification or aid or abet therein;

25 (b) practice professional nursing, practical nursing or practice as an  
26 advanced registered nurse practitioner, unless duly licensed or certified  
27 to do so;

28 (c) use in connection with such person's name any designation im-  
29 plying that such person is a licensed professional nurse, a licensed prac-  
30 tical nurse or an advanced registered nurse practitioner unless duly li-  
31 censed or certified so to practice under the provisions of the Kansas nurse  
32 practice act, and such license or certificate is then in full force;

33 (d) practice professional nursing, practical nursing or as an advanced  
34 registered nurse practitioner during the time a license or certificate issued  
35 under the provisions of the Kansas nurse practice act shall have expired  
36 or shall have been suspended or revoked;

37 (e) represent that a school for nursing is ~~accredited~~ *approved* for  
38 educating either professional nurses or practical nurses, unless such  
39 school has been duly ~~accredited~~ *approved* by the board and such ~~accred-~~  
40 ~~itation~~ *approval* is then in full force;

41 (f) violate any provisions of the Kansas nurse practice act or rules and  
42 regulations adopted pursuant to that act; or

43 (g) represent that a provider of continuing nursing education is ap-

Added "use" so that all information received from the KBI can be used by the Board in evaluating qualifications for nursing licensure.

The Board believes that having all criminal history information about an applicant or licensee may show a pattern of behavior that should be considered when issuing a license.

The Board also wants to be able to get and use criminal history information from other states. Having only information from Kansas is limiting since many licensees endorse into the state.

The same changes were made in section 14 for mental health technicians page 21, lines 28-35.

1 proved by the board for educating either professional nurses or practical  
 2 nurses, unless the provider of continuing nursing education has been  
 3 approved by the board and the approval is in full force.

4 Any person who violates this section is guilty of a class B misdemeanor,  
 5 except that, upon conviction of a second or subsequent violation of this  
 6 section, such person is guilty of a class A misdemeanor.

7 Sec. 7. K.S.A. 1998 Supp. 65-1124 is hereby amended to read as  
 8 follows: 65-1124. No provisions of this law shall be construed as  
 9 prohibiting:

10 (a) Gratuitous nursing by friends or members of the family;

11 (b) the incidental care of the sick by domestic servants or persons  
 12 primarily employed as housekeepers;

13 (c) caring for the sick in accordance with tenets and practices of any  
 14 church or religious denomination which teaches reliance upon spiritual  
 15 means through prayer for healing;

16 (d) nursing assistance in the case of an emergency;

17 (e) the practice of nursing by students ~~enrolled in accredited schools~~  
 18 *as part of a clinical course offered through a school of professional or*  
 19 *practical nursing or programs program of advanced registered profes-*  
 20 *sional nursing approved by the board nor nursing by graduates of such*  
 21 *schools or courses pending the results of the first licensure examination*  
 22 *scheduled following such graduation but in no case to exceed 90 days,*  
 23 *whichever comes first in the United States or its territories;*

24 (f) the practice of nursing in this state by legally qualified nurses of  
 25 any of the other states as long as the engagement of any such nurse  
 26 requires the nurse to accompany and care for a patient temporarily re-  
 27 siding in this state during the period of one such engagement not to  
 28 exceed six months in length, and as long as such nurses do not represent  
 29 or hold themselves out as nurses licensed to practice in this state;

30 (g) the practice by any nurse who is employed by the United States  
 31 government or any bureau, division or agency thereof, while in the dis-  
 32 charge of official duties;

33 (h) auxiliary patient care services performed in medical care facilities,  
 34 adult care homes or elsewhere by persons under the direction of a person  
 35 licensed to practice medicine and surgery or a person licensed to practice  
 36 dentistry or the supervision of a registered professional nurse or a licensed  
 37 practical nurse;

38 (i) the administration of medications to residents of adult care homes  
 39 or to patients in hospital-based long-term care units, including state op-  
 40 erated institutions for the mentally retarded, by an unlicensed person who  
 41 has been certified as having satisfactorily completed a training program  
 42 in medication administration approved by the secretary of health and  
 43 environment and has completed the program on continuing education

Subsection (e) did contain two exceptions to the practice act. The subsection was divided for clarification. The first revision allows for students to practice nursing if in an approved school of nursing or advanced registered nurse practitioner program. New language includes students from out-of-state. There are some schools from border states which bring students into Kansas for clinical rotations.

The same provision was made for nurse anesthesia students in Section 12, page 17, lines 42-43 and page 18, line 1.

14  
1

1 adopted by the secretary, or by an unlicensed person while engaged in  
2 and as a part of such training program in medication administration;

3 (j) the practice of mental health technology by licensed mental health  
4 technicians as authorized under the mental health technicians' licensure  
5 act;

6 (k) performance in the school setting of nursing procedures when  
7 delegated by a licensed professional nurse in accordance with the rules  
8 and regulations of the board;

9 (l) performance of attendant care services directed by or on behalf  
10 of an individual in need of in-home care as the terms "attendant care  
11 services" and "individual in need of in-home care" are defined under  
12 K.S.A. 65-6201 and amendments thereto;

13 (m) performance of a nursing procedure by a person when that pro-  
14 cedure is delegated by a licensed nurse, within the reasonable exercise of  
15 independent nursing judgment and is performed with reasonable skill and  
16 safety by that person under the supervision of a registered professional  
17 nurse or a licensed practical nurse; ~~or~~

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

20 *(o) the practice of nursing by graduates of approved schools of pro-*  
21 *fessional or practical nursing pending the results of the first licensure*  
22 *examination scheduled following such graduation but in no case to exceed*  
23 *120 days, whichever comes first; or*

24 *(p) the teaching of the nursing process in this state by legally qualified*  
25 *nurses of any of the other states while in consultation with a licensed*  
26 *Kansas nurse as long as such individuals do not represent or hold them-*  
27 *selves out as nurses licensed to practice in this state.*

28 Sec. 8. K.S.A. 65-1133 is hereby amended to read as follows: 65-  
29 1133. (a) An ~~accredited~~ approved educational ~~and training~~ program for  
30 advanced registered nurse practitioners is a program conducted in Kansas  
31 which has been approved by the board as meeting the standards and the  
32 rules and regulations of the board. An institution desiring to conduct an  
33 educational ~~and training~~ program for advanced registered nurse practi-  
34 tioners shall apply to the board for ~~accreditation approval~~ and submit  
35 satisfactory proof that it is prepared to and will maintain the standards  
36 and the required curriculum for advanced registered nurse practitioners  
37 as prescribed by this act and by the rules and regulations of the board.  
38 Applications shall be made in writing on forms supplied by the board and  
39 shall be submitted to the board together with the application fee fixed by  
40 the board. The ~~accreditation approval~~ of an educational ~~and training~~ pro-  
41 gram for advanced registered nurse practitioners shall ~~expire two~~ not ex-  
42 ceed 10 years after the granting of such ~~accreditation approval~~ by the  
43 board. An institution desiring to continue to conduct an ~~accredited ap-~~

New subsection (o) provides for new graduates to practice nursing until the results of the licensure exam or for a maximum of 120 days. This is the second part of old subsection (e). The only change of language extends the graduate status from 90 to 120 days. Several employers requested the extension since most of the temporary permits nursing are 120 days. Also this last year some new graduates had difficulty getting licensure examination dates set within 90 days.

New (p) allows nurses licensed in other states to teach nursing in Kansas if in consultation with a Kansas licensed nurse. This provides an avenue for nursing lecturers to come into Kansas for a short period without having to get a Kansas license.

1 *proved* educational ~~and training~~ program for advanced registered nurse  
 2 practitioners shall apply to the board for the renewal of ~~accreditation~~  
 3 *approval* and submit satisfactory proof that it will maintain the standards  
 4 and the required curriculum for advanced registered nurse practitioners  
 5 as prescribed by this act and by the rules and regulations of the board.  
 6 Applications for renewal of ~~accreditation approval~~ shall be made in writ-  
 7 ing on forms supplied by the board ~~and~~. *Each program shall be submitted*  
 8 *submit annually* to the board ~~together with the application an annual fee~~  
 9 fixed by the ~~board~~ *board's rules and regulations to maintain the approved*  
 10 *status.*

11 (b) A program to qualify as an ~~accredited approved~~ educational ~~and~~  
 12 ~~training~~ program for advanced registered nurse practitioners must be con-  
 13 ducted in the state of Kansas, and the school conducting the program  
 14 must apply to the board and submit evidence that: (1) It is prepared to  
 15 carry out the curriculum prescribed by rules and regulations of the board;  
 16 and (2) it is prepared to meet such other standards as shall be established  
 17 by law and the rules and regulations of the board.

18 (c) The board shall prepare and maintain a list of programs which  
 19 qualify as ~~accredited approved~~ educational ~~and training~~ programs for ad-  
 20 vanced registered nurse practitioners whose graduates, if they have the  
 21 other necessary qualifications provided in this act, shall be eligible to  
 22 apply for certificates of qualification as advanced registered nurse prac-  
 23 titioners. A survey of the institution or school applying for ~~accreditation~~  
 24 *approval* of an educational ~~and training~~ program for advanced registered  
 25 nurse practitioners shall be made by an authorized employee of the board  
 26 or members of the board, who shall submit a written report of the survey  
 27 to the board. If, in the opinion of the board, the requirements as pre-  
 28 scribed by the board in its rules and regulations for ~~accreditation approval~~  
 29 are met, it shall so approve ~~and accredit~~ the program. ~~From time to time,~~  
 30 ~~as deemed necessary by the board, it shall cause to be made a resurvey~~  
 31 ~~of accredited programs and written reports of such resurveys submitted~~  
 32 ~~to the board.~~ *The board shall resurvey approved programs on a periodic*  
 33 *basis as determined by rules and regulations.* If the board determines that  
 34 any ~~accredited approved~~ program is not maintaining the standards re-  
 35 quired by this act and by rules and regulations prescribed by the board,  
 36 notice thereof in writing, specifying the failures of such program, shall be  
 37 given. A program which fails to correct such conditions to the satisfaction  
 38 of the board within a reasonable time shall be removed from the list of  
 39 ~~accredited approved~~ programs until such time as the program shall com-  
 40 ply with ~~said such~~ standards. All ~~accredited approved~~ programs shall  
 41 maintain accurate and current records showing in full the theoretical and  
 42 practical courses given to each student.

43 (d) *The board may accept nationally accredited advanced registered*

All nursing programs except Advanced Registered Nurse Practitioners have been paying an annual fee. Cost to send out information and to do re survey visits are the same for all schools.

91-1

1 nurse practitioner programs such as:

2 (1) Advanced registered nurse practitioner programs which have re-  
3 ceived accreditation from a board recognized national nursing accredi-  
4 tation agency shall file evidence of initial accreditation with the board,  
5 and thereafter shall file all reports from the accrediting agency and any  
6 notice of any change in school accreditation status. The board may grant  
7 approval based upon evidence of such accreditation.

8 (2) Advanced registered nurse practitioner programs holding ap-  
9 proval based upon national accreditation are also responsible for comply-  
10 ing with all other requirements as determined by rules and regulations of  
11 the board.

12 (3) The board may grant approval to an advanced registered nurse  
13 practitioner program with national accreditation for a continuing period  
14 not to exceed 10 years.

15 Sec. 9. K.S.A. 1998 Supp. 65-1136 is hereby amended to read as  
16 follows: 65-1136. (a) As used in this section:

17 (1) "Provider" means a person who is approved by the board to ad-  
18 minister an examination and to offer an intravenous fluid therapy course  
19 which has been approved by the board.

20 (2) "Person" means an individual, organization, agency, institution or  
21 other legal entity.

22 (3) "Examination" means an intravenous fluid therapy competency  
23 examination approved by the board.

24 (4) "Supervision" means provision of guidance by a qualified nurse  
25 for the accomplishment of a nursing task or activity with initial direction  
26 of the task or activity and periodic inspection of the actual act of accom-  
27 plishing the task or activity.

28 (b) A licensed practical nurse may perform a limited scope of intra-  
29 venous fluid therapy under the supervision of a registered professional  
30 nurse.

31 (c) A licensed practical nurse may perform an expanded scope of  
32 intravenous fluid therapy under the supervision of a registered profes-  
33 sional nurse, if the licensed practical nurse:

34 (1) ~~Has had one year of clinical experience and~~ Successfully com-  
35 pletes an intravenous fluid therapy course given by ~~an approved a~~ a pro-  
36 vider and passes an intravenous fluid therapy examination administered  
37 by ~~an approved a~~ provider; or

38 ~~(2) has had one year of clinical experience; has performed intravenous~~  
39 ~~fluid therapy prior to the effective date of this act and has successfully~~  
40 ~~passed an examination; or~~

41 ~~(3) has had one year of clinical experience;~~ (2) has successfully com-  
42 pleted an intravenous fluid therapy course ~~not given by an approved pro-~~  
43 vider and ~~has~~ passed an intravenous fluid therapy examination not ad-

The Board deleted the requirement that a LPN had to have one-year experience to perform IV therapy. Members of the nursing community requested the change. It helps with employment situations.

91-1

1-17

1 ministered by ~~an approved~~ a provider or approved by the board and, upon  
2 application to the board for review and approval of such course and ex-  
3 amination, ~~has had~~ the board ~~determine~~ *has determined* that such course  
4 and examination meets or exceeds the standards required under this act  
5 for an approved course and approved examination administered by a  
6 provider.

7 (d) The board may adopt rules and regulations:

8 (1) Which define the limited and expanded scope of practice of in-  
9 travenous fluid therapy which may be performed by a licensed practical  
10 nurse under the supervision of a registered professional nurse;

11 (2) which restricts specific intravenous fluid therapy practices;

12 (3) which prescribe standards for an intravenous fluid therapy course  
13 and examination required of ~~an approved~~ a provider;

14 (4) which govern provider record requirements;

15 (5) which prescribe the procedure to approve, condition, limit and  
16 withdraw approval as a provider; and

17 (6) which further implement the provisions of this section.

18 (e) An advisory committee of not less than two board members and  
19 five nonboard members shall be established by the board to advise and  
20 assist the board in implementing this section as determined by the board.

21 The advisory committee shall meet at least annually. Members of the  
22 advisory committee shall receive amounts provided for in subsection (e)  
23 of K.S.A. 75-3223 and amendments thereto for each day of actual at-  
24 tendance at any meeting of the advisory committee or any subcommittee  
25 meeting of the advisory committee authorized by the board.

26 ~~(f) On and after July 1, 1995, no licensed practical nurse shall perform~~  
27 ~~intravenous fluid therapy unless qualified to perform intravenous fluid~~  
28 ~~therapy under this section and rules and regulations adopted by the board.~~

29 ~~(g)~~ (f) Nothing in this section shall be construed to prohibit the per-  
30 formance of intravenous fluid therapy by a registered professional nurse.

31 ~~(h)~~ (g) Nothing in this section shall be construed to prohibit perform-  
32 ance of intravenous fluid therapy by a licensed practical nurse when per-  
33 formed by delegation of a person licensed to practice medicine and sur-  
34 gery or dentistry.

35 ~~(i)~~ (h) This section shall be part of and supplemental to the Kansas  
36 nurse practice act.

37 Sec. 10. K.S.A. 1998 Supp. 65-1152 is hereby amended to read as  
38 follows: 65-1152. (a) In order to obtain authorization from the board of  
39 nursing to practice as a registered nurse anesthetist an individual shall  
40 meet the following requirements:

41 (1) Be licensed to practice professional nursing under the Kansas  
42 nurse practice act;

43 (2) has successfully completed a course of study in nurse anesthesia

1-17



8-1-1

- 1 in a school of nurse anesthesia ~~accredited or~~ approved by the board;
- 2 (3) has successfully completed an examination approved by the board
- 3 or has been certified by a national organization whose certifying standards
- 4 are approved by the board as equal to or greater than the corresponding
- 5 standards established under this act for obtaining authorization to practice
- 6 as a registered nurse anesthetist; and
- 7 (4) be required to successfully complete a refresher course as defined
- 8 in rules and regulations of the board if the individual has not been in
- 9 active anesthesia practice for five years preceding the application.
- 10 (b) ~~Accreditation Approval~~ of schools of nurse anesthesia shall be
- 11 based on ~~accreditation approval~~ standards specified in K.S.A. 65-1133
- 12 and amendments thereto.
- 13 (c) Schools of nurse anesthesia ~~accredited~~ approved by the board
- 14 under this section shall offer, a masters level degree program in nurse
- 15 anesthesia.
- 16 (d) For the purposes of determining whether an individual meets the
- 17 requirements of item (2) of subsection (a), the board by rules and regu-
- 18 lations shall establish criteria for determining whether a particular school
- 19 of nurse anesthesia maintains standards which are at least equal to schools
- 20 of nurse anesthesia which are ~~accredited~~ approved by the board.

21 Sec. 11. K.S.A. 1998 Supp. 65-1153 is hereby amended to read as  
 22 follows: 65-1153. The board may grant a temporary authorization to prac-  
 23 tice nurse anesthesia as a registered nurse anesthetist: (a) For a period of  
 24 not more than one year to graduates of a school of nurse anesthesia ~~ae-~~  
 25 ~~credited~~ approved by the board pending results of the initial examination;

26 or  
 27 (b) for ~~180 days~~ for the needed amount of time to complete the clinical  
 28 portion of a refresher course ~~and the temporary authorization may be~~  
 29 ~~renewed by the board for one additional period of not to exceed 180 days;~~  
 30 and or

31 (c) for a period not to exceed ~~90~~ 120 days. ~~The 90-day temporary~~  
 32 ~~permit may be renewed for an additional 30 days but not to exceed a~~  
 33 ~~combined total of 120 days.~~

34 Sec. 12. K.S.A. 1998 Supp. 65-1163 is hereby amended to read as  
 35 follows: 65-1163. Nothing in this act shall:

- 36 (a) Prohibit administration of a drug by a duly licensed professional
- 37 nurse, licensed practical nurse or other duly authorized person for the
- 38 alleviation of pain, including administration of local anesthetics;
- 39 (b) apply to the practice of anesthesia by a person licensed to practice
- 40 medicine and surgery, a licensed dentist or a licensed podiatrist;
- 41 (c) prohibit the practice of nurse anesthesia by students enrolled in
- 42 ~~approved~~ courses of study in the administration of anesthesia or analgesia
- 43 as a part of ~~or incidental to~~ such ~~approved~~ course of study approved in

The clinical portions of refresher courses for registered nurse anesthetists vary in the amount of time. This change in statute would allow the Board to determine the length of time for a temporary permit dependent on how long the refresher course will take.

The 120-day temporary permit is a standard for other types of permits. This change parallels K.S.A. 65-1115.

8-1-1



1 *the United States or its territories;*

2 (d) apply to the administration of a pudental block by a person who  
3 holds a valid certificate of qualification as an advanced registered nurse  
4 practitioner in the category of nurse-midwife;

5 (e) apply to the administration by a licensed professional nurse of an  
6 anesthetic, other than general anesthesia, for a dental operation under  
7 the direct supervision of a licensed dentist or for a dental operation under  
8 the direct supervision of a person licensed to practice medicine and  
9 surgery;

10 (f) prohibit the practice by any registered nurse anesthetist who is  
11 employed by the United States government or in any bureau, division or  
12 agency thereof, while in the discharge of official duties; or

13 (g) prohibit a registered professional nurse from administering gen-  
14 eral anesthetic agents to a patient on ventilator maintenance in critical  
15 care units when under the direction of a person licensed to practice med-  
16 icine and surgery or a person licensed to practice dentistry.

17 Sec. 13. K.S.A. 1998 Supp. 65-4203 is hereby amended to read as  
18 follows: 65-4203. (a) *Qualification.* An applicant for a license to practice  
19 as a mental health technician shall:

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

23 (2) have satisfactorily completed an approved course of mental health  
24 technology; and

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

26 (b) ~~A~~ *The board may issue a license to an applicant to perform prac-*  
27 *tice as a mental health technician may only be issued by the board to an*  
28 *applicant meeting who:*

29 (1) *Has met the qualifications set forth in subsection (a) and who;*

30 (2) *has successfully passed a written examination in mental health*  
31 *technology as prescribed and conducted by the board; and*

32 (3) *has no disqualifying factors under K.S.A. 1998 Supp. 65-4209 and*  
33 *amendments thereto.*

34 (c) *Licensure examination within 24 months of graduation. (1) Per-*  
35 *sons who are unsuccessful in passing do not take the licensure examina-*  
36 *tion within 24 months after graduation shall be required by petition the*  
37 *board for permission prior to taking the licensure examination. The board*  
38 *may require the applicant to submit and complete a plan of study prior*  
39 *to taking the licensure examination for a subsequent time.*

40 (2) *Persons who are unsuccessful in passing the licensure examination*  
41 *within 24 months after graduation shall petition the board for permission*  
42 *prior to subsequent attempts. The board may require the applicant to*  
43 *submit and complete a plan of study prior to taking the licensure exami-*

1-20

1 *nation a subsequent time. The study plan shall contain subjects related to*  
2 *deficiencies identified on the failed examination profiles.*

3 (d) An application for initial licensure will be held awaiting comple-  
4 tion of meeting qualifications for a time period specified in rules and  
5 regulations.

6 (e) *Refresher course.* Notwithstanding the provisions of subsection  
7 (a), an applicant for a license to practice as a mental health technician  
8 who has not been licensed to practice as a mental health technician for  
9 five years preceding the application shall be required to successfully com-  
10 plete a refresher course as defined by the board in rules and regulations.

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

14 ~~(f)~~ (g) *Exempt license.* The board may issue an exempt license to any  
15 licensee as defined in rules and regulations who makes written application  
16 for such license on a form provided by the board and remits a fee as  
17 established pursuant to K.S.A. 65-4208 and amendments thereto. The  
18 board may issue an exempt license to a person who is not regularly en-  
19 gaged in mental health technician practice in Kansas but is a charitable  
20 health care provider as defined by K.S.A. 75-6102 and amendments  
21 thereto. Each exempt licensee shall be subject to all provisions of the  
22 mental health technician act, except as otherwise provided in this sub-  
23 section (e). Each exempt license may be renewed biennially subject to  
24 the provisions of this section. The holder of the exempt license shall not  
25 be required to submit evidence of satisfactory completion of a program  
26 of continuing education for renewal. To convert an exempt license to an  
27 active license, the exempt licensee shall meet all the requirements of  
28 subsection (b) or K.S.A. 65-4205 and amendments thereto. The board  
29 shall have authority to write rules and regulations to carry out the pro-  
30 visions of this section.

31 ~~(g)~~ (h) The board may adopt rules and regulations as necessary to  
32 administer the mental health technician's licensure act.

33 Sec. 14. K.S.A. 1998 Supp. 65-4209 is hereby amended to read as  
34 follows: 65-4209. (a) The board may deny, revoke, limit or suspend any  
35 license to practice as a mental health technician issued or applied for in  
36 accordance with the provisions of this act, may publicly or privately cen-  
37 sure a licensee or may otherwise discipline a licensee upon proof that the  
38 licensee:

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

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

43 (3) to be a person who has been adjudged in need of a guardian or

Although not often an issue, the Board found that there was no provision for a refresher course for the mental health technician who has a lapsed license and is out of practice for more than five years. New (e) parallels statutory language for the licensed professional and practical nurse.

Note: (e) is all new language even though it is not italic.

1-20

1 conservator, or both, under the act for obtaining a guardian or conser-  
2 vator, or both, and who has not been restored to capacity under that act;

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

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

7 (6) has been convicted of a felony or has been convicted of a mis-  
8 demeanor involving an illegal drug offense, unless the applicant or li-  
9 censee establishes sufficient rehabilitation to warrant the public trust,  
10 except that notwithstanding K.S.A. 74-120 no license, certificate of qual-  
11 ification or authorization to practice as a licensed mental health technician  
12 shall be granted *or renewed* to a person with a felony conviction for a  
13 crime against persons, *a sex offense, or a crime affecting family relation-*  
14 *ships and children* as specified in ~~article~~ *articles* 34, 35 or 36 of chapter  
15 21 of the Kansas Statutes Annotated and acts amendatory thereof or sup-  
16 plemental thereto *or similar laws of other jurisdiction*;

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

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

22 (9) to have a license to practice mental health technology denied,  
23 revoked, limited or suspended, or to be publicly or privately censured,  
24 by a licensing authority of another state, agency of the United States  
25 government, territory of the United States or country or to have other  
26 disciplinary action taken against the applicant or licensee by a licensing  
27 authority of another state, agency of the United States government, ter-  
28 ritory of the United States or country. A certified copy of the record or  
29 order of public or private censure, denial, suspension, limitation, revo-  
30 cation or other disciplinary action of the licensing authority of another  
31 state, agency of the United States government, territory of the United  
32 States or country shall constitute prima facie evidence of such a fact for  
33 purposes of this paragraph (9).

34 (b) Upon filing a sworn complaint with the board charging a person  
35 with having been guilty of any of the unlawful practices specified in sub-  
36 section (a), two or more members of the board shall investigate the  
37 charges, or the board may designate and authorize an employee or em-  
38 ployees of the board to conduct an investigation. After investigation, the  
39 board may institute charges. If an investigation, in the opinion of the  
40 board, reveals reasonable grounds to believe the applicant or licensee is  
41 guilty of the charges, the board shall fix a time and place for proceedings,  
42 which shall be conducted in accordance with the Kansas administrative  
43 procedure act.

1-22

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

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

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

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

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

26 (3) a pattern of practice or other behavior which demonstrates a man-  
27 ifest incapacity or incompetence to practice mental health technology.

28 (f) The board upon request shall receive *and use* from the Kansas  
29 bureau of investigation such criminal history record information relating  
30 to *arrests*, criminal convictions, *expungements and diversions* as necessary  
31 for the purpose of determining initial and continuing qualifications of  
32 licensees of and applicants for licensure by the board. *The board may*  
33 *also have access and use of all other criminal justice information that may*  
34 *be available from other state and federal sources unless otherwise prohib-*  
35 *ited by law.*

36 (g) All proceedings under this section shall be conducted in accord-  
37 ance with the provisions of the Kansas administrative procedure act.

38 Sec. 15. K.S.A. 1998 Supp. 74-1106 is hereby amended to read as  
39 follows: 74-1106. (a) *Appointment, term of office.* (1) The governor shall  
40 appoint a board consisting of 11 members of which six shall be registered  
41 professional nurses, two shall be licensed practical nurses, one shall be a  
42 licensed mental health technician and two shall be members of the gen-  
43 eral public, which shall constitute a board of nursing, with the duties,

1-22

1 power and authority set forth in this act.

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

8 (3) On the effective date of this act, the Kansas federation of licensed  
9 practical nurses shall submit to the governor a list of licensed practical  
10 nurses containing names of not less than three times the number of per-  
11 sons to be appointed, and appointments shall be made after consideration  
12 of such list, with the first appointment being for a term of four years and  
13 the second appointment being for a term of two years. Upon the expi-  
14 ration of the term of any licensed practical nurse, a successor of like  
15 qualifications shall be appointed in the same manner as the original ap-  
16 pointment for a term of four years and until a successor is appointed and  
17 qualified.

18 (4) Upon the expiration of the term of any mental health technician,  
19 the Kansas association of human services technologies shall submit to the  
20 governor a list of persons licensed as mental health technicians containing  
21 names of not less than three times the number of persons to be appointed,  
22 and appointments shall be made after consideration of such list for terms  
23 of four years and until a successor is appointed and qualified.

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

26 (6) Whenever a vacancy occurs on the board of nursing, it shall be  
27 filled by appointment for the remainder of the unexpired term in the  
28 same manner as the preceding appointment. No person shall serve more  
29 than two consecutive terms as a member of the board of nursing and  
30 appointment for the remainder of an unexpired term shall constitute a  
31 full term of service on such board. *With the expiration of terms for the*  
32 *registered professional nurse from education and one public member in*  
33 *July, 1999, the next appointments for those two positions will be for only*  
34 *one year with thereafter the two positions being for terms of four years.*

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

Every four years there is the potential for five new Board members to be appointed by the Governor. This creates a difficult time with almost half of the Board becoming oriented to their new duties at the same time. By staggering two of the Board members' appointments in FY 2000, then only two or three Board members would be appointed each year.

1-24

1 reappointment. The governor shall appoint successors so that the regis-  
2 tered professional nurse membership of the board shall consist of at least  
3 two members who are engaged in nursing service, at least two members  
4 who are engaged in nursing education and at least one member who is  
5 engaged in practice as an advanced registered nurse practitioner or a  
6 registered nurse anesthetist. The licensed mental health technician mem-  
7 ber shall be licensed to practice as licensed mental health technician in  
8 the state with at least five years' experience and shall be actively engaged  
9 in the field of mental health technology in Kansas at the time of appoint-  
10 ment and reappointment. The consumer members shall represent the  
11 interests of the general public. Each member of the board shall take and  
12 subscribe the oath prescribed by law for state officers, which oath shall  
13 be filed with the secretary of state.

14 (c) *Duties and powers.* (1) The board shall meet annually at Topeka  
15 during the month of September and shall elect from its members a pres-  
16 ident, vice-president and secretary, each of whom shall hold their re-  
17 spective offices for one year. The board shall employ an executive ad-  
18 ministrator, who shall be a registered professional nurse, who shall not  
19 be a member of the board and who shall be in the unclassified service  
20 under the Kansas civil service act, and shall employ such other employees,  
21 who shall be in the classified service under the Kansas civil service act as  
22 necessary to carry on the work of the board. As necessary, the board shall  
23 be represented by an attorney appointed by the attorney general as pro-  
24 vided by law, whose compensation shall be determined and paid by the  
25 board with the approval of the governor. The board may hold such other  
26 meetings during the year as may be deemed necessary to transact its  
27 business.

28 (2) The board ~~may shall~~ adopt rules and regulations ~~not inconsistent~~  
29 *consistent* with this act necessary to carry into effect the provisions  
30 thereof, and such rules and regulations may be published and copies  
31 thereof furnished to any person upon application.

32 (3) The board shall prescribe curricula and standards for professional  
33 and practical nursing programs and mental health technician programs,  
34 and provide for surveys of such schools and courses at such times as it  
35 may deem necessary. It shall ~~accredit~~ *approve* such schools and approve  
36 courses as meet the requirements of the appropriate act and rules and  
37 regulations of the board.

38 (4) The board shall examine, license and renew licenses of duly qual-  
39 ified applicants and conduct hearings upon charges for limitation, sus-  
40 pension or revocation of a license or ~~accreditation~~ *approval* of profes-  
41 sional and practical nursing and mental health technician programs and  
42 may limit, deny, suspend or revoke for proper legal cause, licenses or  
43 ~~accreditation~~ *approval* of professional and practical nursing and mental

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1 health technician programs, as hereinafter provided. Examination for ap-  
2 plicants for registration shall be given at least twice each year and as many  
3 other times as deemed necessary by the board. The board shall promote  
4 improved means of nursing education and standards of nursing care  
5 through institutes, conferences and other means.

6 (5) The board shall have a seal of which the executive administrator  
7 shall be the custodian. The president and the secretary shall have the  
8 power and authority to administer oaths in transacting business of the  
9 board, and the secretary shall keep a record of all proceedings of the  
10 board and a register of professional and practical nurses and mental health  
11 technicians licensed and showing the certificates of registration or licenses  
12 granted or revoked, which register shall be open at all times to public  
13 inspection.

14 (6) The board may enter into contracts as may be necessary to carry  
15 out its duties.

16 (7) The board is hereby authorized to apply for and to accept grants  
17 and may accept donations, bequests or gifts. The board shall remit all  
18 moneys received by it under this paragraph (7) to the state treasurer at  
19 least monthly. Upon receipt of any such remittance, the state treasurer  
20 shall deposit the entire amount thereof in the state treasury, and such  
21 deposit shall be credited to the grants and gifts fund which is hereby  
22 created. All expenditures from such fund shall be made in accordance  
23 with appropriation acts upon warrants of the director of accounts and  
24 reports issued pursuant to vouchers approved by the president of the  
25 board or a person designated by the president.

26 (8) A majority of the board of nursing including two professional  
27 nurse members shall constitute a quorum for the transaction of business.

28 (d) *Subpoenas.* In all investigations and proceedings, the board shall  
29 have the power to issue subpoenas and compel the attendance of wit-  
30 nesses and the production of all relevant and necessary papers, books,  
31 records, documentary evidence and materials. Any person failing or re-  
32 fusing to appear or testify regarding any matter about which such person  
33 may be lawfully questioned or to produce any books, papers, records,  
34 documentary evidence or relevant materials in the matter, after having  
35 been required by order of the board or by a subpoena of the board to do  
36 so, upon application by the board to any district judge in the state, may  
37 be ordered by such judge to comply therewith. Upon failure to comply  
38 with the order of the district judge, the court may compel obedience by  
39 attachment for contempt as in the case of disobedience of a similar order  
40 or subpoena issued by the court. A subpoena may be served upon any  
41 person named therein anywhere within the state with the same fees and  
42 mileage by an officer authorized to serve subpoenas in civil actions in the  
43 same procedure as is prescribed by the code of civil procedure for sub-

1 poenas issued out of the district courts of this state.

2 (e) *Compensation and expenses.* Members of the board of nursing  
3 attending meetings of such board, or attending a subcommittee meeting  
4 thereof authorized by such board, shall be paid compensation, subsistence  
5 allowances, mileage and other expenses as provided in K.S.A. 75-3223,  
6 and amendments thereto.

7 Sec. 16. K.S.A. 65-1133 and K.S.A. 1998 Supp. 65-1115, 65-1116,  
8 65-1118a, 65-1119, 65-1120, 25-1122, 65-1124, 65-1136, 65-1152, 65-  
9 1153, 65-1163, 65-4203, 65-4209 and 74-1106 are hereby repealed.

10 Sec. 17. This act shall take effect and be in force from and after its  
11 publication in the statute book.

1-26



Thank you Mr. Chairman and members of the committee. I will stand for questions at this time.

Mary Blubaugh MSN, RN  
Executive Administrator

# Attachments

- A. **Position Paper Related to Use of Terms Approval and Accreditation**
- B. **Attorney General Opinion NO. 97-88  
Public Health-Regulation of Nursing; Nurses-Denial, Revocation of Licensure; Prohibition on Licensure of Felons; Retroactivity**
- C. **Article 34 – Crimes Against Persons  
Article 35 – Sex Offense**

February 10, 2000

## Position Paper Related to Use of Terms *Approval* and *Accreditation*

The right to practice a profession or discipline is protected by the U.S. Constitution. The Constitution also states that a state may regulate a profession or occupation that affects general welfare. Nursing is a profession that makes an impact on general welfare and is, therefore, subject to regulation by the state. Language in state nurse practice acts and rules and regulations, however, has not been consistent in differentiating between mandated, legal processes and voluntary, quality-assurance processes, as related to the regulation of nursing education programs. A review of the nurse practice acts and rules and regulations of the 61 Member Boards of the National Council of State Boards of Nursing (NCSBN) indicates that most state boards of nursing use the term *approval* to describe oversight of nursing education programs. Some boards use the term *accreditation*, and a few boards use both terms interchangeably. The purpose of this position paper is to differentiate between the terms *approval* and *accreditation* as they describe a state regulatory body's role and responsibility in nursing education programs.

The term *approval* is defined as "official or formal consent, confirmation or sanction" (*American Heritage Dictionary*, 1993, p. 122). In the National Council's *Model Nursing Administrative Rules*, *approval* is defined as "official recognition of nursing education programs which meet standards established by the board of nursing" (NCSBN, 1994, p. 2). Implied in approval is permission to carry out an act, in this case, the operation of a nursing education program. In the regulatory arena, approval refers to mandatory and legal recognition of a nursing program to begin and/or continue to operate. Graduation from an approved program is necessary for a student to be eligible to take the NCLEX® examination for registered nurses or licensed practical/vocational nurses.

Approval also requires compliance with essential educational standards to protect both the students who are enrolled in the program and the public who will receive nursing care from the graduates of the program. Participation by regulatory bodies in the approval process is congruent with their legal responsibility.

The term *accreditation* is defined as "recognition of an institution of learning as maintaining prescribed standards requisite for its graduates to gain admission to other reputable institutions of higher learning or to achieve credentials for professional practice" (*American Heritage Dictionary*, 1993, p. 122). In the National Council's *Model Nursing Administrative Rules*, *accreditation* is defined as "the official authorization or status granted by an agency other than a state board of nursing" (NCSBN, 1994, p. 2). Inherent in the accreditation process is evaluation by peers (Bogue & Saunders, 1992).

Whereas approval is a mandatory process related to permission for an education program to begin and continue operating by meeting essential educational standards, accreditation is generally considered a voluntary process that focuses on program excellence. In addition, approval processes (initial and continuing) are generally carried out by governmental agencies while accreditation is conducted by peers.

Both approval and accreditation are important components in the successful operation of nursing education programs designed to protect the public and provide appropriate educational experiences for future nurses. Thus, it is important that boards of nursing review their state Nurse Practice Acts and Rules and Regulations to ensure that terminology is consistent with the inherent differences between the terms *approval* and *accreditation*.

### References

1. American Heritage Dictionary. (1993). Houghton Mifflin Co.: Boston.
2. Bogue, E.G. & Saunders, R.L. (1992). The evidence for quality: Strengthening the tests for academic and administrative effectiveness. San Francisco: Jossey-Bass Publications.
3. National Council of State Boards of Nursing. (1994). Model Administrative Rules. Chicago: NCSBN.



Attachment B

State of Kansas

## Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL  
ATTORNEY GENERAL

November 5, 1997

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### ATTORNEY GENERAL OPINION NO. 97- 88

Patsy Johnson, Executive Administrator  
Kansas State Board of Nursing  
Landon State Office Building  
900 S.W. Jackson, Room 551  
Topeka, Kansas 66612-1230

Re: Public Health--Regulation of Nursing; Nurses--Denial, Revocation of License; Prohibition on Licensure of Felons; Retroactivity

Synopsis: Amendments to the Nurse Practice Act stating that no license shall be granted to a certain class of felons apply only to applicants for new licenses after the effective date of the amendment. The class of felonies, however, is not limited by time, and applies to felonies occurring before the effective date of the amendment. This limit on licensure is a rational exercise of the state's police power and is not prohibited by the ex post facto clause of the United States Constitution. Cited herein: K.S.A. 1996 Supp. 65-1120 as amended by 1997 S.B. 14, § 4; K.S.A. 65-1117; U.S. Const., Article 1, § 10, Amend. XIV.

\* \* \*

Dear Ms. Johnson:

As Executive Director for the Kansas State Board of Nursing, you request our opinion regarding amendments to K.S.A. 65-1120 contained in 1997 Senate Bill No. 164. K.S.A. 65-1120 sets forth grounds for discipline of nurses and grounds for denial of licenses. You are concerned with the amendments to subsection (a) which bar licensure of persons with any of the felony convictions specified in article 34 of chapter 21 of the Kansas Statutes Annotated. As amended the statute now provides, in relevant part:

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

....

"(2) to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense, if the board determines, after investigation, that such person has not been sufficiently rehabilitated involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120 no license, certificate of qualification or authorization to practice nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced registered nurse practitioner or registered nurse anesthetist shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto;"

Before addressing your specific questions, it is necessary to determine the rights of a nursing licensee once a license is granted. The Fourteenth Amendment to the United States Constitution, commonly known as the Due Process Clause, provides that no state shall "deprive any person of life, liberty, or property, without due process of law."

In order for the Fourteenth Amendment to apply, a nurse would have to have a property interest in his or her license. In **Board of Regents v. Roth**, 408 U.S. 564, 33 L.Ed.2d 548, 92 S.Ct. 2701 (1972) the Court determined:

"To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it. It is a purpose of the ancient institution of property to protect those claims upon which people rely in their daily lives, reliance that must not be arbitrarily undermined. . . .

"Property interests, of course, are not created by the Constitution. Rather, they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law - rules or understandings that secure certain benefits and that support claims

1-31

of entitlement to those benefits." **Board of Regents v. Roth**, 408 U.S. at 577, 33 L.Ed.2d at 561.

In a companion case, the Court elaborated on its definition:

"A person's interest in a benefit is a 'property' interest for due process purposes if there are . . . rules or mutually explicit understandings that support his claim of entitlement to the benefit. . . ." **Perry v. Sindermann**, 408 U.S. 593, 601, 33 L.Ed.2d 570, 92 S.Ct. 2694, 2699 (1972).

Whether a license to practice a profession or an occupation falls within the Supreme Court's expressed definition of property was addressed in **Richardson v. Town of Eastover**, 922 F.2d 1152 , 1156-1157 (4th Cir. 1991):

"A license issued by the state which can be suspended or revoked only upon a showing of cause creates a property interest protected by the Fourteenth Amendment. . . . Where a license or similar benefit may be withdrawn at will, however, the holder of the license or benefit has no property interest because he has no legitimate claim of entitlement to something that can be withdrawn at the whim of the grantor. . . .

"While an entitlement is required before a property interest is implicated, the entitlement need not be given explicitly. An entitlement to a renewal may be implied, for instance, from policies, practices and understanding, if state law or other sources support a finding of such an entitlement. . . .

"Similarly, mutual expectations may create an entitlement in a license. For instance, a state-issued license for the continued pursuit of the licensee's livelihood, renewable periodically on the payment of a fee and revocable only for cause, creates a property interest in the licensee."

See also, **Kansas Racing Management, Inc. v. Kansas Racing Commission**, 244 Kan. 342 (1989) (holder of racetrack facility owner license or facility manager license has property right in license); **State ex rel. Stephan v. Adam**, 243 Kan. 619 (1988) (member of the bar, licensed to practice law, has property right in license); **Brown v. South Carolina State Board of Education**, 391 S.E. 2d 866 (S.C. 1990) (a teacher certificate necessary for employment is a protected property interest); **Green v. Brantley**, 719 F.Supp. 1570 (N.D. Ga. 1989) (flight examiner had due process property interest in his Federal Aviation Administration "Certificate of Authority" which afforded means by which he earned his living); **Medina v. Rudman**, 545 F.2d 244 (1st Cir. 1976) (once racing track license is granted, property right under state law comes into being).

Based upon the structure of the Kansas Nurse Practice Act, we believe a nurse has a property right in a nursing license once the nurse receives the nurse's license, certificate

of qualification, or authorization to practice. [For convenience sake, we will only address licenses in the remainder of this opinion.]

You ask whether the prohibition on licensure of a person with an article 34, chapter 21 person felony is limited to felonies occurring after the effective date of the amendments (July 1, 1997), or if it also applies to article 34 person felonies committed before that date. The amendment refers to "a felony conviction." We believe these words are clear and unambiguous, and that no statutory construction is necessary--there is nothing in this phrase to limit application to new felonies. We believe it applies to all such felonies, whether the felonious act or conviction occurred before or after the effective date of the amendment (July 1, 1997). We do not believe that this constitutes a retrospective application of the statute (which is not favored at law) because, as will be discussed, we believe this portion of the amendment only applies to those persons applying for a new license after July 1, 1997.

You ask whether the prohibition on granting a license applies to licensees who may be renewing or reinstating a license but have a prior conviction. The Kansas Nurse Practice Act sets forth procedures nurses must follow to obtain a license and the rights a person has once that license is obtained. For instance, an applicant for a license to be a professional nurse must meet certain requirements and then pass an examination. "Upon successfully passing such examinations the board shall *issue* to the applicant a license to practice nursing as a registered professional nurse." K.S.A. 65-1115(c)(1). The initial issuance of a license grants to the licensee certain rights, including a property right in the license so that it may not be taken away without due process. See, e.g., ***State ex. rel. Stephan v. Smith***, 242 Kan. 336 (1987).

Under the statutory scheme, so long as a nurse continues to meet certain requirements, including "the requirements set forth in K.S.A. 65-1115 or 65-1116 and amendments thereto in effect at the time of initial licensure of the applicant" the nurse receives a "renewal license" K.S.A. 65-1117(a). Reinstatement of a lapsed license is different, however. The nurse must essentially furnish "proof that the applicant is competent and qualified." K.S.A. 65-1117(b)

The issue is whether the words in the amendment "no license . . . shall be *granted*" refer to just the initial issuance of the license or renewals also. Because a license becomes a type of property right once issued, we believe that a "renewal license" is something different from the issuance of the initial license. Black's Law Dictionary defines "grant" as follows:

"To bestow; to confer upon some one other than the person or entity which makes the grant. . . . Transfer of property real or personal by deed or writing. . . . To give or permit as a right or privilege. . . ." Black's Law Dictionary 700 (6th ed. 1990) .

We believe that the initial issuance of a license is legally a "grant" of a license and certain property rights. A renewal cannot be considered a grant of a license because a renewal is essentially a continuation of the property interest which has already been granted. In order to read the bar to issuance of a license so as to apply to renewal licenses, it would have to provide "no license, certificate of qualification or authorization to practice nursing as a licensed professional nurse . . . shall be granted *or renewed*. . . ." In essence, we do not believe the bar on issuance of a license applies to renewal licenses, only the initial grant of a license. We do believe, however, the absolute bar does apply to reinstatement of lapsed licenses because of the requirements of K.S.A. 65-1117(b).

We believe there is a rational basis for such a distinction between existing licensees and new applicants. Applying the prohibition to nurses who have already been granted a license but who have a preexisting felony would amount to a retrospective application of the statute. Retrospective application of a statute is not favored, especially when it affects substantive rights.

"A statute operates prospectively unless its language clearly indicates that the legislature intended that it operate retrospectively. . . . This rule is normally applied when an amendment to an existing statute or a new statute is enacted which creates a new liability not existing before under the law or which changes the substantive rights of the parties." ***Jackson v. American Best Freight System***, 238 Kan. 322 (1985).

This amendment concerning the bar to licensure for felony convictions in K.S.A. 65-1120 clearly affects substantive rights and there is no clear indication in the amendatory language that it operate retrospectively. Therefore, we believe the absolute bar on granting a license to a person convicted of an article 34, chapter 21 person felony applies only to applicants for a new license after July 1, 1997, the effective date of the amendments to K.S.A. 1996 Supp. 65-1120. If a licensee is subsequently convicted of such a crime, the board could proceed under its discretionary authority to revoke the license "unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust." If it is discovered that a nurse seeking renewal or reinstatement has previously been convicted of such a crime, the board could refuse to renew or reinstate under its discretionary authority to revoke a license "unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust."

You also ask whether the bar on licensure would apply to students who entered nursing school before the effective date of the amendments, but who have a prior person felony conviction under article 34, chapter 21.

The state has police power to regulate the practice of health care providers. ***State ex. rel. Schneider v. Liggett***, 223 Kan. 610, 615 (1978). Prior to licensure, a person has no "property right" in the practice of nursing and is not entitled to constitutional procedural due process rights. See, e.g., ***State ex. rel. Stephan v. Adam*** 243 Kan. 619, (1988),



***Kansas Racing Management, Inc. v. Kansas Racing Comm'n***, 244 Kan. 342 (1989). One limit on the state's exercise of police power is one of substantive due process or equal protection (*i.e.* discrimination against the class of felons). The Kansas Supreme Court explained the standard for reviewing legislation when challenged on substantive due process grounds:

"If a statute is attacked as violating due process, the test is whether the legislative means selected have real and substantial relation to the objective sought. This rule has been restated in terms of whether the statute is reasonable in relation to its subject and is adopted in the interests of the community." ***Cott v. Peppermint Twist Mgt. Co.***, 253 Kan. 452, Syl. ¶ 18 (1993).

This standard is functionally equivalent to the rational basis test in the context of equal protection challenges. For equal protection purposes the class is felons, which is not a suspect class (one based on gender, race, age, etc.) so the test is the "rational basis" test.

"Under the 'rational basis' test, if there is any rational relationship between the act and a legitimate governmental objective, the act passes muster. Under this test one challenging the constitutionality of the act bears the burden of showing no rational relationship exists between the means and the end." ***State v. Risjord***, 249 Kan. 497, 501-02 (1991).

Nurses routinely deal with patients who are in a weak and dependent condition. The level of trust between a patient and nurse must be uncompromised. The absolute bar on felons as nurses is only for those with article 34 person felony convictions, meaning violent, person felonies such as murder, manslaughter, kidnapping, etc. We believe there is a rational relationship between an absolute bar against future licensure of nurses with such convictions and the goal of protecting the public health and promoting the profession of nursing.

We note, as an aside, that in ***De Veau v. Braisted***, 363 U.S. 144, 80 S.Ct. 1146, 4 L.Ed.2d 1109 (1960), the Supreme Court upheld a statute which prohibited any person from being licensed as a longshoreman if that person had a felony conviction. The court held it was "a reasonable means for achieving a legitimate state aim, namely, eliminating corruption on the waterfront." 363 U.S. at 157. We believe that if a longshoreman can be denied a license for any felony conviction, a nurse certainly can be denied a license for a violent felony conviction, as set forth in the person felonies in article 34 of the Kansas statutes.

Another possible constitutional issue raised by application of the law to student nurses with prior felonies is whether the prohibition on licensure of certain felons amounts to an improper ex post facto law.

Article I, Section 10, of the United States Constitution provides: "No State shall . . . pass any . . . ex post facto law." This constitutional provision only applies to penal statutes. **Collins v. Youngblood**, 497 U.S. 37, 110 S.Ct. 2715, 111 L.Ed.2d 30 (1990); **State v. Meyers**, 260 Kan. 669 (1996). In **De Veau**, the prohibition on licensure as a longshoreman applied to prior felonies, so the Court had to determine whether it was a prohibited ex post facto law. The court described an ex post facto law:

"The mark of an ex post facto law is the imposition of what can fairly be designated punishment for past acts. The question in each case where unpleasant consequences are brought to bear upon an individual for prior conduct, is whether the legislative aim was to punish that individual for past activity, or whether the restriction of the individual comes about as a relevant incident to a regulation of a present situation, such as the proper qualifications for a profession. [Citation omitted]. No doubt is justified regarding the legislative purpose of § 8. The proof is overwhelming that New York sought not to punish ex-felons, but to devise what was felt to be a much-needed scheme of regulation of the waterfront, and for the effectuation of that scheme it became important whether individuals had previously been convicted of a felony." 363 U.S. at 161.

In **Meffert v. Medical Board**, 66 Kan. 723 (1903), *aff'd*. 195 U.S. 625, the court upheld a new statute allowing the Medical Board to deny a license to practice medicine based upon a felony conviction. The court said it was not an invalid ex post facto law:

"The revocation of a license to practice medicine for any of the reasons mentioned in the statute was not intended to be, nor does it operate as, a punishment, but as a protection to the citizens of the state."

We believe that the clear purpose of the amendments to K.S.A. 65-1120 are for the protection of the public. They are not punitive and do not constitute an ex post facto law. Consequently, a nursing student who applies for a license after July 1, 1997, with a person felony conviction as specified in article 34, chapter 21 must be denied a license.

In determining the scope of the amendments to K.S.A. 65-1120, we have attempted to determine the Legislature's intentions. We note that the Legislature could constitutionally have gone further and barred licensure (or made revocation mandatory) for persons with other convictions, so long as there was a rational basis for barring licensure. For instance, the bar for licensure for article 34 felonies does not prohibit licensure of a person convicted of any of the felony sex offenses set forth in article 35. We believe that a bar of licensure or revocation of licensure for such crimes would not be punitive in nature, but would be a rationally based measure designed for the protection of the citizens of this state. It is unclear to us why the legislatively enacted ban was drawn so narrowly.

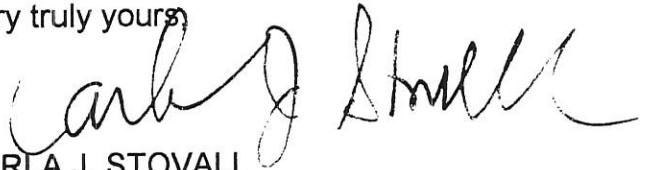
Patsy Johnson

Page 8

Finally you ask whether the absolute bar applies to convictions which occur outside of Kansas. The bar on licensure applies to persons with a "felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated." The Legislature is presumed to intend that a statute be given a reasonable construction so as to avoid unreasonable or absurd results. *Todd v. Kelly*, 251 Kan. 512 (1992). It would make no sense to distinguish between crimes committed in another state and those committed in Kansas. We believe that by saying "as specified," the Legislature meant any criminal conviction in any jurisdiction which meets the elements of a crime as set forth in the person felonies in article 34 of chapter 21 of Kansas Statutes Annotated. We do not believe it is limited to Kansas convictions.

In summary, we believe that the amendments to K.S.A. 1996 Supp. 60-1120 which provide "no license, . . . shall be granted" apply only to applicants for new licenses after the effective date of the amendment, July 1, 1997. The felonies to which the amendment applies, however, include felonies committed before or after the effective date of the act. The felonies may be from another jurisdiction, so long as the elements are the same as those of crimes specified in the person felonies in article 34 of chapter 21.

Very truly yours,



CARLA J. STOVALL  
Attorney General of Kansas



Steve Phillips  
Assistant Attorney General

CJS:JLM:SP:jm

## Felony Crimes Against Persons

### Chapter 34 Article 21

Sorted by Severity Level and then by Statute Number

Reference	Description
21-3401	Murder in the first degree
21-3402(a)	International second degree murder
21-3439	Capital Murder
21-3412(c)(3)*	Domestic Battery; third or subsequent w/in last 5yrs
21-3401	Murder in the first degree
21-3421	Aggravated kidnapping
21-3401	Murder in the first degree; Conspiracy (21-3302)
21-3402(b)	Murder in the second degree (reckless)
21-3401	Murder in the first degree; Solicitation (21-3303)
21-3403	Voluntary manslaughter
21-3420	Kidnapping
21-3427	Aggravated robbery
21-3415(b)(1)	Aggravated battery on LEO-intentional, great bodily harm (see 21-344(a)(1)(A))
21-3440	Injury to a pregnant woman in the commission of a felony
21-3414(a)(1)(A)	Aggravated battery - intentional, great bodily harm
21-3440	Injury to a pregnant woman in commission of K.S.A. 21-342 (aggravated assault), K.S.A. 21-3413(a)(1), battery or KSA 21-3517, sexual battery
21-3404	Involuntary manslaughter
21-3426	Robbery
21-3414(a)(2)(A)	Aggravated battery - reckless, great bodily harm
21-3411	Aggravated assault on law enforcement officer
21-3437	Mistreatment of a dependent adult - physical
21-3410	Aggravated assault
21-3422a(b)	Aggravated interference with parental custody
21-3428	Blackmail
21-3413(a)(2)	Battery against a correctional officer
21-3413(a)(3)	Battery against a youth center officer
21-3413(a)(4)	Battery against a juvenile detention officer
21-3413(a)(5)*	Battery against a city/county correctional officer/employee
21-34(a)(1)(B)	Aggravated battery - intentional, bodily harm
21-3414(a)(1)(C)	Aggravated battery - intentional, physical contact
21-3438(c)	Stalking when the offender has a previous conviction within 7 years for stalking the same victim
21-3414(a)(2)(B)	Aggravated battery - reckless, bodily harm
21-3406	Assisting suicide
21-3419	Criminal threat
21-3438(a)	Stalking in all other cases
21-3422(c)(2)	Interference with parental custody in all other cases

\*This crime was created or the severity level of this crime was amended during the 1996 legislative session.

Article 35 - Sex Offense

21-3502	Rape
21-3503	Indecent liberties with a child
21-3504	Aggravated indecent liberties with a child
21-3505	Criminal sodomy
21-3506	Aggravated criminal sodomy
21-3510	Indecent solicitation of a child
21-3511	Aggravated indecent solicitation of a child
21-3513	Promoting prostitution
21-3516	Sexual exploitation of a child
21-3518	Aggravated sexual battery
21-3520	Unlawful sexual relations

HHS  
2-10-2000  
Atch #2

# HOUSE BILL No. 2169

By Committee on Health and Human Services

1-28

9 AN ACT concerning health care professionals; relating to nurses and  
10 mental health technicians; approved education; licensure by Kansas  
11 state board of nursing; crimes and expungements, fees; amending  
12 K.S.A. 65-1133 and K.S.A. 1998 Supp. 65-1115, 65-1116, 65-1118a,  
13 65-1119, 65-1120, 65-1122, 65-1124, 65-1136, 65-1152, 65-1153, 65-  
14 1163, 65-4203, 65-4209 and 74-1106 and repealing the existing  
15 sections.

16  
17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. K.S.A. 1998 Supp. 65-1115 is hereby amended to read as  
19 follows: 65-1115. (a) *Qualifications of applicants.* An applicant for a li-  
20 cense to practice as a registered professional nurse shall:

21 (1) Have graduated from a high school accredited by the appropriate  
22 legal accrediting agency or has obtained the equivalent of a high school  
23 education, as determined by the state department of education;

24 (2) ~~hold evidence of graduation~~ *have graduated* from an ~~accredited~~  
25 *approved* school of professional nursing in the United States or its terri-  
26 tories or from a school of professional nursing in a foreign country which  
27 is approved by the board as defined in rules and regulations;

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

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

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

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

42 (A) *Met the qualifications set forth in subsections (a) and (b);*

43 (B) *passed a written examination as prescribed by the board, and,*

Line 43 [delete] [and] - [insert] [, provided however that no person shall take such examination unless that person meets the other qualifications of this subsection and subsection (a) and (b);

2-2

1 by a licensing authority of another state, agency of the United States  
2 government, territory of the United States or country. A certified copy of  
3 the record or order of public or private censure, denial, suspension, lim-  
4 itation, revocation or other disciplinary action of the licensing authority  
5 of another state, agency of the United States government, territory of the  
6 United States or country shall constitute prima facie evidence of such a  
7 fact for purposes of this paragraph (8); or

8 (9) to have assisted suicide in violation of K.S.A. 21-3406 and amend-  
9 ments thereto as established by any of the following:

10 (A) A copy of the record of criminal conviction or plea of guilty for a  
11 felony in violation of K.S.A. 21-3406 and amendments thereto.

12 (B) A copy of the record of a judgment of contempt of court for  
13 violating an injunction issued under K.S.A. 1998 Supp. 60-4404 and  
14 amendments thereto.

15 (C) A copy of the record of a judgment assessing damages under  
16 K.S.A. 1998 Supp. 60-4405 and amendments thereto.

17 (b) *Proceedings.* Upon filing of a sworn complaint with the board  
18 charging a person with having been guilty of any of the unlawful practices  
19 specified in subsection (a), two or more members of the board shall in-  
20 vestigate the charges, or the board may designate and authorize an em-  
21 ployee or employees of the board to conduct an investigation. After in-  
22 vestigation, the board may institute charges. If an investigation, in the  
23 opinion of the board, reveals reasonable grounds for believing the appli-  
24 cant or licensee is guilty of the charges, the board shall fix a time and  
25 place for proceedings, which shall be conducted in accordance with the  
26 provisions of the Kansas administrative procedure act.

27 (c) *Witnesses.* No person shall be excused from testifying in any pro-  
28 ceedings before the board under this act or in any civil proceedings under  
29 this act before a court of competent jurisdiction on the ground that such  
30 testimony may incriminate the person testifying, but such testimony shall  
31 not be used against the person for the prosecution of any crime under  
32 the laws of this state except the crime of perjury as defined in K.S.A. 21-  
33 3805 and amendments thereto.

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



Line 17 [insert] Provided however the prohibition on renewals shall only apply to felony convictions for a crime against persons or a sex offense as specified in articles 34 and 35 of chapter 21 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto or similar laws of another jurisdiction committed after the effect date of this act.



3.  
2

1 the board of nursing fee fund.

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

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

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

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

12 (f) *Criminal justice information.* The board upon request shall receive  
13 *and use* from the Kansas bureau of investigation such criminal history  
14 record information relating to arrests ~~and~~ criminal convictions, ~~expun-~~  
15 ~~gements and diversions~~ as necessary for the purpose of determining initial  
16 and continuing qualifications of licensees of and applicants for licensure  
17 by the board. *The board may also have access and use of all other criminal*  
18 *justice information that may be available from other state and federal*  
19 *sources unless otherwise prohibited by law.*

← Lines 14 and 15 [delete][expungements and diversions]

20 Sec. 6. K.S.A. 1998 Supp. 65-1122 is hereby amended to read as  
21 follows: 65-1122. It is a violation of law for any person, firm, corporation  
22 or association to:

23 (a) Sell or fraudulently obtain or furnish any nursing diploma, license,  
24 record or certificate of qualification or aid or abet therein;

25 (b) practice professional nursing, practical nursing or practice as an  
26 advanced registered nurse practitioner, unless duly licensed or certified  
27 to do so;

28 (c) use in connection with such person's name any designation im-  
29 plying that such person is a licensed professional nurse, a licensed prac-  
30 tical nurse or an advanced registered nurse practitioner unless duly li-  
31 censed or certified so to practice under the provisions of the Kansas nurse  
32 practice act, and such license or certificate is then in full force;

33 (d) practice professional nursing, practical nursing or as an advanced  
34 registered nurse practitioner during the time a license or certificate issued  
35 under the provisions of the Kansas nurse practice act shall have expired  
36 or shall have been suspended or revoked;

37 (e) represent that a school for nursing is ~~accredited~~ *approved* for  
38 educating either professional nurses or practical nurses, unless such  
39 school has been duly ~~accredited~~ *approved* by the board and such ~~accred-~~  
40 ~~itation approval~~ *approval* is then in full force;

41 (f) violate any provisions of the Kansas nurse practice act or rules and  
42 regulations adopted pursuant to that act; or

43 (g) represent that a provider of continuing nursing education is ap-



4  
2.

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

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

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

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

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

26 (3) a pattern of practice or other behavior which demonstrates a man-  
27 ifest incapacity or incompetence to practice mental health technology.

28 (f) The board upon request shall receive *and use* from the Kansas  
29 bureau of investigation such criminal history record information relating  
30 to ~~arrests, criminal convictions, expungements and diversions~~ as necessary  
31 for the purpose of determining initial and continuing qualifications of  
32 licensees of and applicants for licensure by the board. *The board may*  
33 *also have access and use of all other criminal justice information that may*  
34 *be available from other state and federal sources unless otherwise prohib-*  
35 *ited by law.*

36 (g) All proceedings under this section shall be conducted in accord-  
37 ance with the provisions of the Kansas administrative procedure act.

38 Sec. 15. K.S.A. 1998 Supp. 74-1106 is hereby amended to read as  
39 follows: 74-1106. (a) *Appointment, term of office.* (1) The governor shall  
40 appoint a board consisting of 11 members of which six shall be registered  
41 professional nurses, two shall be licensed practical nurses, one shall be a  
42 licensed mental health technician and two shall be members of the gen-  
43 eral public, which shall constitute a board of nursing, with the duties,

← Line 30 [delete] [expungements and diversions]

5-2

1 power and authority set forth in this act.

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

8 (3) On the effective date of this act, the Kansas federation of licensed  
9 practical nurses shall submit to the governor a list of licensed practical  
10 nurses containing names of not less than three times the number of per-  
11 sons to be appointed, and appointments shall be made after consideration  
12 of such list, with the first appointment being for a term of four years and  
13 the second appointment being for a term of two years. Upon the expi-  
14 ration of the term of any licensed practical nurse, a successor of like  
15 qualifications shall be appointed in the same manner as the original ap-  
16 pointment for a term of four years and until a successor is appointed and  
17 qualified.

18 (4) Upon the expiration of the term of any mental health technician,  
19 the Kansas association of human services technologies shall submit to the  
20 governor a list of persons licensed as mental health technicians containing  
21 names of not less than three times the number of persons to be appointed,  
22 and appointments shall be made after consideration of such list for terms  
23 of four years and until a successor is appointed and qualified.

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

26 (6) Whenever a vacancy occurs on the board of nursing, it shall be  
27 filled by appointment for the remainder of the unexpired term in the  
28 same manner as the preceding appointment. No person shall serve more  
29 than two consecutive terms as a member of the board of nursing and  
30 appointment for the remainder of an unexpired term shall constitute a  
31 full term of service on such board. *With the expiration of terms for the*  
32 *registered professional nurse from education and one public member in*  
33 *July, 1999, the next appointments for those two positions will be for only*  
34 *one year with thereafter the two positions being for terms of four years.*

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

← Line 33 [delete] [1999] – [insert] [2003]



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Emma Doherty, M.A., R.N.  
President

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

**FOR MORE INFORMATION CONTACT**

Terri Roberts, JD, RN  
785.233.8638

February 10, 2000

## H.B. 2169 Nurse Practice Act Revisions

Chairperson Boston and members of the House Health and Human Services Committee, my name is Terri Roberts representing the KANSAS STATE NURSES ASSOCIATION. We are asking for your consideration and support of H.B. 2169 which calls for both substantive and technical changes in the Kansas Nurse Practice Act and Mental Health Technician licensure Act.

KSNA supports the Board of Nursing proposed revisions which would:

Change the term "accreditation" to "approval" throughout all sections addressing school of nursing or advanced nursing programs education, provide time-frames that are consistent for review and approval of the various types of nursing education programs and provide statutory authority for the Board to assess advanced nursing programs a fee for program approval,

Provide greater clarity to when licensees must take the licensure exam and the remedies for repeated failure,

Update language on schools of nursing resurvey process, including new language proposed (page 8, lines 34-43) which will permit the Board of Nursing to recognize or accept "national accreditation" of schools of nursing in lieu of all or parts of state-specific review by the Board,

Provide greater clarification for permitting RN's enrolled in schools for advanced practice nursing outside Kansas to engage in advanced practice nursing in the state during the clinical component of their respective program (such as the nurse midwives), and for graduate nurses to practice nursing for 120 days, versus the current 90 days, pending the results of their first licensure exam,

Provide flexibility to RN's completing Registered Nurse Anesthetists (RNA) refresher courses, so that they are not limited to 120 days for completing the course for return to practice, and

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Constituent of The American Nurses Association

HHS  
2-10-2000  
Atch #3

KSNA would like to offer two amendments to H.B. 2169 that address the prohibitions to licensure. A little background is in order on this issue: In 1997 KSNA requested language be added to the licensing statute to prohibit the Board of Nursing from licensing felons convicted of Article 34 Crimes Against Persons.

Over the past two years additional discussion has ensued regarding expanding the list of prohibitions and this bill as introduced proposes to add two more categories of violations to the list of prohibitions: Article 35 and Article 36 felonies. A list of each of these conviction descriptions. Throughout the course of the last year we have worked with the Board of Nursing to review the implications of adding both 35 and 36 felonies to the list and have reached consensus as a profession that we will support adding the Article 35 felonies, but that we will ask this committee to consider an amendment to remove the Article 36 violations from the list of prohibitions for licensure.

The amendments that the Board of Nursing has proposed today we have reviewed and are supportive of. We are particularly pleased that the Board is proposing to remove the language which would have permitted access to "expunged records". Attached is a letter delivered to the Board of Nursing during their December, 1998 Board of Nursing meeting by Dr. Ellen Carson, the Secretary of the KANSAS STATE NURSES ASSOCIATION. It states the position of the association on this topic. Additionally, KSNA presented testimony in 1999 before the Senate Judiciary Committee subcommittee on S.B 4, addressing expungements, which the BON offered amendments to in order to be granted access to expungement records. The Senate subcommittee however, did not recommend including the BON amendments to the full committee.

Our rationale being supportive of the balloon amendment proposed by the agency today include :

- No other healthcare provider licensing board has this authority,
- the expungement statutes are quite specific and do not permit expungement of violent crimes against other persons,
- initial applications and renewals are considered open records under the Kansas Open Records Act and could be accessed by the public-not just the review of the licensing agency for determination of fitness to practice, and
- the court time to respond to the BON for any licensee application having an expungement does not seem to be a wise use of public resources intended to protect the public.

*Thank you for your time and consideration.*

(3) The board may grant approval to a school of nursing with national accreditation for a continuing period not to exceed 10 years.

3 Sec. 5. K.S.A. 1998 Supp. 65-1120 is hereby amended to read as  
4 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may  
5 deny, revoke, limit or suspend any license, certificate of qualification or  
6 authorization to practice nursing as a registered professional nurse, as a  
7 licensed practical nurse, as an advanced registered nurse practitioner or  
8 as a registered nurse anesthetist that is issued by the board or applied for  
9 under this act or may publicly or privately censure a licensee or holder  
10 of a certificate of qualification or authorization, if the applicant, licensee  
11 or holder of a certificate of qualification or authorization is found after  
12 hearing:

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

15 (2) to have been guilty of a felony or to have been guilty of a mis-  
16 demeanor involving an illegal drug offense unless the applicant or licensee  
17 establishes sufficient rehabilitation to warrant the public trust, except that  
18 notwithstanding K.S.A. 74-120 no license, certificate of qualification or  
19 authorization to practice nursing as a licensed professional nurse, as a  
20 licensed practical nurse, as an advanced registered nurse practitioner or  
21 registered nurse anesthetist shall be granted *or renewed to a person with*  
22 *a felony conviction for a crime against persons, a sex offense or a crime*  
23 *affecting family relationships and children as specified in article articles*  
24 *34, 35 and 36 of chapter 21 of the Kansas Statutes Annotated and acts*  
25 *amendatory thereof or supplemental thereto or similar laws of another*  
26 *jurisdiction;*

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

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

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

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

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

39 (8) to have a license to practice nursing as a registered nurse or as a  
40 practical nurse denied, revoked, limited or suspended, or to be publicly  
41 or privately censured, by a licensing authority of another state, agency of  
42 the United States government, territory of the United States or country  
43 or to have other disciplinary action taken against the applicant or licensee

KANSAS STATE NURSES ASSOCIATION  
February 10, 2000 H.B. 2169  
Proposed Amendment

or (insert)  
Delete article 36 prohibition on licensure, crime  
affecting family relationships and children.  
and (insert)

KANSAS STATE NURSES ASSOCIATION  
February 10, 2000 H.B. 2169  
Proposed Amendment

1 conservator, or both, under the act for obtaining a guardian or conser-  
2 vator, or both, and who has not been restored to capacity under that act;  
3 (4) is incompetent or grossly negligent in carrying out the functions  
4 of a mental health technician;

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

7 (6) has been convicted of a felony or has been convicted of a mis-  
8 demeanor involving an illegal drug offense, unless the applicant or li-  
9 censee establishes sufficient rehabilitation to warrant the public trust,  
10 except that notwithstanding K.S.A. 74-120 no license, certificate of qual-  
11 ification or authorization to practice as a licensed mental health technician  
12 shall be granted *or renewed* to a person with a felony conviction for a \_\_\_\_\_ or (insert)  
13 crime against persons, ~~a sex offense, or a crime affecting family relation-~~ Delete article 36 prohibition on licensure,  
14 ~~ships and children~~ as specified in ~~article articles 34, 35 or 36~~ of chapter crime affecting family relationships  
15 21 of the Kansas Statutes Annotated and acts amendatory thereof or sup- and (insert) and children  
16 plemental thereto *or similar laws of other jurisdiction*;

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

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

22 (9) to have a license to practice mental health technology denied,  
23 revoked, limited or suspended, or to be publicly or privately censured,  
24 by a licensing authority of another state, agency of the United States  
25 government, territory of the United States or country or to have other  
26 disciplinary action taken against the applicant or licensee by a licensing  
27 authority of another state, agency of the United States government, ter-  
28 ritory of the United States or country. A certified copy of the record or  
29 order of public or private censure, denial, suspension, limitation, revo-  
30 cation or other disciplinary action of the licensing authority of another  
31 state, agency of the United States government, territory of the United  
32 States or country shall constitute prima facie evidence of such a fact for  
33 purposes of this paragraph (9).

34 (b) Upon filing a sworn complaint with the board charging a person  
35 with having been guilty of any of the unlawful practices specified in sub-  
36 section (a), two or more members of the board shall investigate the  
37 charges, or the board may designate and authorize an employee or em-  
38 ployees of the board to conduct an investigation. After investigation, the  
39 board may institute charges. If an investigation, in the opinion of the  
40 board, reveals reasonable grounds to believe the applicant or licensee is  
41 guilty of the charges, the board shall fix a time and place for proceedings,  
42 which shall be conducted in accordance with the Kansas administrative



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

TO: Kansas State Board of Nursing

FROM: Ellen Carson Ph.D., ARNP  
Secretary  
Kansas State Nurses Association

DATE: December 8, 1998

SUBJ: Open Forum *Board Access to Expungement Records*

I thank the Board for providing me the opportunity to speak and the arrangement of the telephone presentation. Technology is truly a wonderful asset to us.

I am Ellen Carson, a registered nurse and ARNP, a faculty member at Pittsburg State University and a member of the KSNA Board of Directors. I want to speak to the Board about the proposed changes to K.S.A. 12-4516(h), 21-4610(I) and 21-4623 dealing with access to expunged records.

At the November KSNA Board of Directors meeting, we discussed these changes at length. The consensus was that the association would not support the KSBN's request for this access.

It is unclear why the Board would require information from expunged records. Individuals whose records are expunged *must meet very specific criteria*. The individual must submit a petition to the court where a judge renders a decision. Guidelines for record expungement are limited and well-defined by state statute and *do not include violent crimes* against others such as rape, murder, or sexual offenses. Further, if the individual repeats a crime, the expunged record is considered in determining the sentence. Therefore, the individual must maintain a "clean record" to preserve expungement.

The KSNA Board applauds the KSBN's support of the prohibition of individuals convicted of violent crimes. This was a prudent decision on the part of KSBN and the state legislature to change the nurse practice act to protect the public. However, the association does not believe that accessing expunged records would be a prudent use of the KSBN's resources and manpower. Considering the finite financial assets and workforce of the KSBN, the association believes that using state resources for this endeavor would be fruitless in the effort to protect the welfare of the citizens of Kansas.

I appreciate the opportunity to provide this opinion from the association.

Thank you and Happy Holidays.

c:\office\legislation\expungement

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

5-5

**FELONY CRIMES**  
**SORTED NUMERICALLY BY STATUTE NUMBER**

<u>REFERENCE</u>	<u>DESCRIPTION</u>	<u>F/M</u>	<u>LEVEL/P/N</u>
21-3422a(b)	Aggravated interference with parental custody	F	7 P
21-3426	Robbery	F	5 P
21-3427	Aggravated robbery	F	3 P
21-3428	Blackmail	F	7 N
21-3437	Mistreatment of a dependant adult - physical	F	6 P
21-3438(a)	Stalking in all other cases	F	10 P
21-3438(b)	Stalking when the victim has a temporary restraining order or injunction against the offender	F	9 P
21-3438(c)	Stalking when the offender has a previous conviction within 7 years for stalking the same victim	F	8 P
21-3439	Capital murder	F	Offgrid P
21-3440	Injury to a pregnant woman in the commission of a felony	F	4 P
21-3440	Injury to a pregnant woman in commission of KSA 21-3412 (aggravated assault), KSA 21-3413(a)(1), battery or KSA 21-3517, sexual battery	F	5 P
21-3442	Involuntary Manslaughter in the commission of a DUI	F	4 P
21-3502(a)(1)	Rape; sexual intercourse with a person who does not consent; overcome by force, fear, etc.	F	1 P
21-3502(a)(2)	Rape; sexual intercourse with a child <14 yoa	F	1 P
21-3502(a)(3)	Rape; knowing misrepresentation that sexual intercourse medically/therapeutically necessary procedure	F	2 P
21-3502(a)(4)	Rape; knowing misrepresentation that sexual intercourse legally required procedure w/in scope of authority	F	2 P
21-3503(a)(1)	Indecent liberties w/child; child ≥14 yoa, but <16 yoa; lewd fondling or touching	F	5 P
21-3503(a)(2)	Indecent liberties w/child; child ≥14 yoa, but <16 yoa; soliciting to engage in lewd fondling, etc.	F	5 P
21-3504(a)(1)	Aggravated indecent liberties w/child; ≥14 yoa, but <16 yoa; sexual intercourse	F	3 P
21-3504(a)(2)	Aggravated indecent liberties w/child; ≥14 yoa, but <16 yoa; lewd fondling or touching without consent	F	4 P
21-3504(a)(3)	Aggravated indecent liberties w/child; <14 yoa; lewd fondling or touching	F	3 P
21-3505(a)(2)	Criminal sodomy; sodomy with a child ≥14 yoa, but <16 yoa	F	3 P
21-3505(a)(3)	Criminal sodomy; causing child ≥14 yoa, but <16 yoa to engage in sodomy with a person or animal	F	3 P
21-3506(a)(1)	Aggravated criminal sodomy; sodomy with a child <14 yoa	F	2 P
21-3506(a)(2)	Aggravated criminal sodomy; causing a child <14 yoa to engage in sodomy with a person or animal	F	2 P
21-3506(a)(3)	Aggravated criminal sodomy; sodomy with person who does not consent; overcome by force, etc.	F	2 P
21-3508(b)(2)	Lewd and lascivious behavior (presence of person under 16)	F	9 P
21-3510(a)(1)	Indecent solicitation of a child; ≥14 yoa & <16 yoa to commit or submit to unlawful sexual act	F	7 P
21-3510(a)(2)	Indecent solicitation of a child; ≥14 yoa & <16 yoa, inviting, etc. to enter secluded place	F	7 P
21-3511(a)	Aggravated indecent solicitation of a child; <14 yoa to commit or submit to unlawful sexual act	F	6 P
21-3511(b)	Aggravated indecent solicitation of a child; <14 yoa, inviting, etc. to enter secluded place	F	6 P
21-3513(b)(2)	Prostitution; Promoting prostitution when prostitute is ≥16 yoa, second or subsequent conviction	F	7 P
21-3513(b)(3)	Prostitution; Promoting prostitution when prostitute is <16 yoa	F	6 P
21-3516(a)(1)	Sexual exploitation of a child; employing, etc. child <18 yoa to engage in sexually explicit conduct	F	5 P
21-3516(a)(2)	Sexual exploitation of a child; possessing visual medium of child <18 yoa engaging in such conduct	F	5 P
21-3516(a)(3)	Sexual exploitation of a child; guardian permitting child <18 yoa to engage in such conduct	F	5 P
21-3516(a)(4)	Sexual exploitation of a child; promoting performance of child <18 yoa to engage in such conduct	F	5 P
21-3518	Aggravated sexual battery; intentional touching, without consent, who is ≥16 yoa; force, fear, etc.	F	5 P
21-3520*	Unlawful sexual relations	F	10 P
21-3601	Bigamy	F	10 N
21-3602	Incest	F	10 P
21-3603(a)(1)	Aggravated incest; Marriage to person <18 yoa, who is a known relative	F	7 P
21-3603(a)(2)(A)	Aggravated incest; Otherwise lawful sexual intercourse or sodomy with relative ≥16 yoa, but <18 yoa	F	5 P
21-3603(a)(2)(B)	Aggravated incest; Lewd fondling and touching described in 21-3503 with relative ≥16 yoa, but <18 yoa	F	7 P
21-3604	Abandonment of child; involves child <16 yoa	F	8 P
21-3604a	Aggravated abandonment of a child	F	5 P
21-3605	Nonsupport of a child or spouse	F	10 N
21-3609	Abuse of a child; involves child <18 yoa; intentional torture, cruelly beating, etc.	F	5 P
21-3610b	Furnishing alcoholic beverages to a minor for illicit purposes; child <18 yoa	F	9 P
21-3611(a)	Aggravated juvenile delinquency; adjudicated child ≥16 yoa running away, escaping from SRS facility	F	9 N
21-3612(a)(4)	Contributing to a child's misconduct; sheltering or concealing a runaway child	F	8 P
21-3612(a)(5)	Contributing to a child's misconduct; causing, encouraging child <18 yoa to commit a felony	F	7 P
21-3701(b)(1)	Theft; loss of ≥ \$25,000	F	7 N
21-3701(b)(2)	Theft; loss of ≥ \$500, but < \$25,000	F	9 N
21-3701(b)(4)	Theft; loss of < \$500, if in previous five yrs. offender has been convicted two or more times of the same crime	F	9 N
21-3704(e)(1)	Theft of services; loss of ≥ \$25,000	F	7 N
21-3704(e)(2)	Theft of services; loss of ≥ \$500 but < \$25,000	F	9 N
21-3707(d)(1)	Giving a worthless check; loss of ≥ \$25,000	F	7 N
21-3707(d)(2)	Giving a worthless check; loss of ≥ \$500 but < \$25,000	F	9 N
21-3707(d)(4)	Giving a worthless check; loss of < \$500, if in previous five yrs. offender convicted two or more times of the same crime	F	9 N
21-3710	Forgery	F	8 N
21-3711	Making a false writing	F	8 N
21-3712	Destroying a written instrument	F	9 N
21-3713	Altering a legislative document	F	9 N
21-3715(a)	Burglary; building used as a dwelling	F	7 P

Legend

F = Felony  
M = Misdemeanor

P = Scored as person  
N = Scored as nonperson  
S = Scored as select  
NS = Not scored

\* This crime was created or the severity level of this crime was amended during the 1999 legislative session.

3-6



FELONY CRIMES  
SORTED NUMERICALLY BY STATUTE NUMBER

REFERE.	DESCRIPTION	F/M	LEVEL	P/N
SB149§38(a)(1)*	Unlawful Voluntary Sexual Relations; sexual intercourse	F	8	P
SB149§38(a)(2)*	Unlawful Voluntary Sexual Relations; sodomy	F	9	P
SB149§38(a)(3)*	Unlawful Voluntary Sexual Relations; lewd fondling or touching	F	10	P
S.HB2469§12(d)*	Drugs: Possession of ephedrine, pseudoephedrine or phenylpropanolamine; precursor to illegal substance, etc.	F	1D	N
S.HB2469§5(a)(1)*	Unlawful endangerment: setup, build device, to protect controlled substance	F	8	N
S.HB2469§5(a)(2)*	Unlawful endangerment: setup, build device, to protect controlled substance; physical injury	F	7	P
S.HB2469§5(a)(3)*	Unlawful endangerment: setup, build device, to protect controlled substance; serious physical injury	F	5	P
8-0116(a)	Vehicle identification numbers; sale of vehicle w/ ID destroyed, removed, etc.	F	10	N
8-0116(c)	Vehicle identification numbers; destroying, altering, removing, etc. vehicle ID	F	10	N
8-1567(f)	Driving Under Influence of Alcohol or Drugs - third or subsequent conviction	F	Nongrid	N
8-1568(c)(3)	Fleeing or eluding a law enforcement officer - third or subsequent conviction	F	9	P
8-1568(c)(4)*	Fleeing or eluding a police officer	F	9	P
9-2002	Banking; Making False Reports of Statements, a class D felony under old law	F	Unranked	N
9-2004(b)(1)	Banking; Swear Falsely; Perjury other than in a felony trial	F	9	N
9-2004(b)(1)	Banking; Swear Falsely; Perjury in a felony trial	F	7	N
9-2010	Banking; Insolvent Bank Receiving Deposits	F	10	N
9-2012	Banking; Embezzlement; Intent to defraud	F	7	N
16-0305	Violation of prearranged funeral agreements act at least \$500 but < \$25,000	F	9	N
16-0305	Violation of prearranged funeral agreements act \$25,000 or more	F	7	N
16-0633	Contract; Investment Certificates; Unlawful receipt of commission	F	7	N
16-0634	Contract; Investment Certificates; Unlawful receipt/possession of company property	F	7	N
16-0635	Contract; Investment Certificates; Unlawful acts pertaining to books/records	F	7	N
16-0640	Contract; Investment Certificates; Unlawful Acts or Omissions	F	7	N
16a-5-301(1)*	Violation of the Uniform Consumer Credit Code; second or subsequent offense	F	7	N
17-1253	Securities; <u>Intentional</u> unlawful offers, sale or purchase	F	6	N
17-1254	Securities; <u>Intentional</u> unlawful sale by an unregistered dealer	F	7	N
17-1255	Securities; <u>Intentional</u> unlawful sale of unregistered securities	F	7	N
17-1264	Securities; Filing false or misleading statements	F	10	N
17-1264	Securities; <u>Intentional</u> filing of false or misleading statements	F	10	N
17-1267	Securities; <u>Intentional</u> violation of any rule and regulation adopted or order issued under the Securities Act	F	7	N
17-3412	Savings & Loans; Declaration of Dividends	F	10	N
17-5811	Savings & Loans; Accepting Payment When Capital Impaired	F	10	N
17-5812	Savings & Loans; Fraudulent Acts	F	10	N
19-3519(b)(2)	Counties; Water Districts; fraudulent claims of at least \$500, but less than \$25,000	F	9	N
19-3519(b)(3)	Counties; Water Districts; fraudulent claims of \$25,000 or more	F	7	N
21-3401	Murder in the first degree	F	Offgrid	P
21-3401	Murder in the first degree; Attempt (21-3301)	F	1	P
21-3401	Murder in the first degree; Conspiracy (21-3302)	F	2	P
21-3401	Murder in the first degree; Solicitation (21-3303)	F	3	P
21-3402(a)*	Murder in the second degree (intentional)	F	1	P
21-3402(b)	Murder in the second degree (reckless)	F	2	P
21-3403	Voluntary manslaughter	F	3	P
21-3404	Involuntary manslaughter	F	5	P
21-3406(a)(1)*	Assisting suicide (force or duress)	F	3	P
21-3406(a)(2)*	Assisting suicide	F	9	P
21-3410	Aggravated assault	F	7	P
21-3411	Aggravated assault on law enforcement officer	F	6	P
21-3412(c)(3)	Domestic battery; third or subsequent w/in last 5 years	F	Nongrid	P
21-3413(a)(2)*	Battery against a correctional officer	F	5	P
21-3413(a)(3)*	Battery against a juvenile correctional facility officer	F	5	P
21-3413(a)(4)*	Battery against a juvenile detention facility officer	F	5	P
21-3413(a)(5)*	Battery against a city/county correctional officer/employee	F	5	P
21-3414(a)(1)(A)	Aggravated battery - intentional, great bodily harm	F	4	P
21-3414(a)(1)(B)	Aggravated battery - intentional, bodily harm	F	7	P
21-3414(a)(1)(C)	Aggravated battery - intentional, physical contact	F	7	P
21-3414(a)(2)(A)	Aggravated battery - reckless, great bodily harm	F	5	P
21-3414(a)(2)(B)	Aggravated battery - reckless, bodily harm	F	8	P
21-3415(b)(1)	Aggravated battery on LEO - intentional, great bodily harm (see 21-3414(a)(1)(A))	F	3	P
21-3415(b)(2)	Aggravated battery on LEO - intentional, bodily harm or physical contact (see KSA 21-3414(a)(1)(B) and 21-3414(a)(1)(C))	F	6	P
21-3419	Criminal threat	F	9	P
21-3419a(b)	Aggravated criminal threat; < \$500 loss of productivity	F	4	P
21-3419a(c)	Aggravated criminal threat; ≥ \$500 but < \$25,000 loss of productivity	F	5	P
21-3419a(d)	Aggravated criminal threat; ≥ \$25,000 loss of productivity	F	6	P
21-3420	Kidnapping	F	3	P
21-3421	Aggravated kidnapping	F	1	P
21-3422(c)(2)	Interference with parental custody in all other cases	F	10	P

Legend  
F = Felony  
M = Misdemeanor

P = Scored as person  
N = Scored as nonperson  
S = Scored as select  
NS = Not scored

\* This crime was created or the severity level of this crime was amended during the 1999 legislative session.

3-7