

Approved: 2-22-00
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chairperson Sandy Praeger at 10:00 a.m. on February 17, 2000 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Norman Furse, Revisor of Statutes
Lisa Montgomery, Revisor of Statutes
Hank Avila, Legislative Research Department
JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

Chris Collins, Dir. of Governmental Affairs, Kansas Medical Society
Mark Stafford, Kansas Board of Healing Arts
Gary Reser, Kansas Veterinary Medical Association
Chip Wheelan, Executive Director, Osteopathic Medicine
Loretta Hoerman, Kansas Association of Physician Assistants
Keith Landis, Christian Science Committee

Others attending: See attached list

Action on SB 513 - Cosmetology; braiding not considered cosmetology

Staff briefed the Committee on option 1 (Attachment 1) and option 2 (Attachment 2) for amending **SB 513** as shown in the attached balloons of the bill. Senator Hardenburger made a motion to adopt option 1 amendment which clarified the exemption of hair braiding under the Board of Cosmetology, seconded by Senator Becker. After Committee discussion on the amendment, the motion carried.

Senator Hardenburger made a motion the Committee recommend SB 513 as amended favorably for passage, seconded by Senator Bleeker. The motion carried.

Hearing on: SB 527 - Denial of licenses for persons in healing arts who have been convicted of a felony 2/3 majority of board determine otherwise.

Chris Collins, Director of Governmental Affairs, Kansas Medical Society, testified before the Committee in support of **BS 527** which would give two-thirds of the members of the Board of Healing Arts the ability to consider a felony conviction when deciding whether to grant, renew or reinstate a license. (Attachment 3)

Mark Stafford, General Counsel, Kansas Board of Healing Arts, testified in support for **SB 527** but expressed concern with language relating to persons who already have a license and a felony conviction in their past would not be allowed to renew their license without a two-thirds majority vote by the Board making the requisite finding may be potentially unconstitutional. He pointed out that this would have to be voted on annually, and renewing a license is a ministerial act that does not require Board findings. The Board suggests that for those persons who already have a license, the higher standard should apply only to future felony convictions, and this standard may be applied to past felonies for those who are not currently licensed. Other proposed amendments were outlined in the attached balloon of the bill along with his written testimony. (Attachment 4)

Gary Reser, Kansas Veterinary Medical Association, expressed support for the bill and offered an amendment that would include language relating to veterinarians convicted of a felony. (Attachment 5)

The Revisor noted that a veterinary medicine amendment would not apply to the bill, and suggested a new bill may need to be drafted to accommodate the proposal.

Chip Wheelan, Kansas Association of Osteopathic Medicine, expressed his concern with language in the bill and proposed a substitute bill as outlined in his written testimony. (Attachment 6)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S, Statehouse, at 10:00 a.m. on February 17, 2000.

Hearing on SB 599 - Physician Assistant licensure

Loretta Hoerman, Kansas Academy of Physician Assistants, testified in support of **SB 599** which would provide for the licensure of physician assistants. Ms. Hoerman provided the Committee with background information relating to the current registration of PA's as noted in her written testimony. (Attachment 7)

Mark Stafford, Kansas Board of Healing Arts, expressed his support for the bill, but noted that the Board did not have sufficient time to work with the proponents of the bill to strengthen some of the current language and will submit a balloon of the bill showing proposed amendments within a day or two. (Attachment 8)

Keith Landis, Christian Science Committee on Publication for Kansas, submitted a proposed amendment that would replace language relating to groups to be excluded from the act. (Attachment 9)

Chris Collins, KMS, expressed her support for **SB 599** but suggested language in Sec 6, on page 9, lines eight through twenty-four, which addresses the PA's scope of practice, is unnecessary and creates a source of possible confusion. (Attachment 10)

Adjournment

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

The next meeting is scheduled for February 18, 2000.

**SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST**

DATE: 2-17-00

NAME	REPRESENTING
Mary Lou Davis	KBOC
Cal Hawn	KBOC
James Jared Klesler	LaCrosse High
Jessica Bittel	Rush Co. Leadership
Jason Wagner	Rush Co. Leadership
Kristin Goodheart	Rush Co.
Carolyn Modderdorf	Ks St Ns Assn
Chip Wheelen	Osteopathic Assn
Rich Guthrie	Health Midwest
Bill Sneed	KFDA
Bob Corkins	Ks Public Policy Institute
Debra Jennings	Self
Wendy E. Moore	SELF
Doug Smith	Ks. Academy of Physician Assistants
LORETTA AZERMAN	KAPPA
Mark Stafford	BOHA
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Steve Phillips	ASST. A.G.
Gary Reser	Kan. Veterinary Medical Assn.

SENATE BILL No. 513

By Committee on Public Health and Welfare

1-27

9 AN ACT concerning cosmetology; relating to the practice thereof;
10 amending K.S.A. 1999 Supp. 65-1901 and repealing the existing
11 section.

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

14 Section 1. K.S.A. 1999 Supp. 65-1901 is hereby amended to read as
15 follows: 65-1901. As used in K.S.A. 65-1901 through 65-1912, and amend-
16 ments thereto:

17 (a) "Apprentice" means any person engaged in learning the practice
18 of cosmetology, nail technology, esthetics or electrology in a school of
19 cosmetology, nail technology, esthetics or electrology licensed by the
20 board, except until such time as an electrology school is established in
21 this state apprenticing of electrology will be subject to approval by the
22 board in a clinic or establishment.

23 (b) "Board" means the state board of cosmetology.

24 ~~(c) "Braiding" means the interweaving of three or more strands~~
25 ~~of hair.~~

26 (d) "Cosmetologist" means any person, other than a manicurist or
27 esthetician, who practices the profession of cosmetology for
28 compensation.

29 ~~(1)~~ (1) "Cosmetology" means the profession of:

30 (A) Arranging, dressing, permanently curling, curling, waving,
31 cleansing, temporarily or permanently coloring, conditioning or cutting
32 the hair;

33 (B) massaging, cleansing, stimulating, manipulating or performing
34 similar work on the scalp, face, neck, arms or hands, by use of either the
35 hands or mechanical or electrical appliances;

36 (C) removing superfluous hair from the face or any part of the
37 body by use of either the hands or mechanical or electrical appliances
38 other than electric needles;

39 (D) using cosmetic preparations, antiseptics, lotions, creams or
40 other preparations in performing any of the practices described in pro-
41 visions ~~(d)(1), (2) and (3)~~ paragraphs (A), (B) and (C) of this subsection
42 ~~(c), (1)~~;

43 (E) manicuring, pedicuring or sculpturing nails; or

And by relettering subsections accordingly

1-2

- 1 ~~(f)~~ (1) performing any other beautifying process on any person
- 2 (2) "Cosmetology" shall not ~~mean braiding~~.
- 3 ~~(e)~~ (f) "Esthetician" means any person who, for compensation prac-
- 4 tices the profession of cosmetology only to the following extent
- 5 (1) Performing facials, skin care and eyebrow and eyelash services,
- 6 or
- 7 (2) removing superfluous hair from the face or body, using either the
- 8 hands or mechanical or electrical appliances other than electric needles.
- 9 ~~(f)~~ (g) "Manicurist" means any person who, for compensation prac-
- 10 tices the profession of cosmetology only to the extent of manicuring, ped-
- 11 icuring and sculpturing nails.
- 12 ~~(g)~~ (h) "Nail technology" means manicuring, pedicuring and sculp-
- 13 turing nails.
- 14 ~~(h)~~ (i) "Electrologist" means any person who, for compensation re-
- 15 moves hair from, or destroys hair on, the human body for beautification
- 16 by use of an electric needle only.
- 17 ~~(i)~~ (j) "Person" means any individual, corporation, partnership, as-
- 18 sociation or other entity.
- 19 Sec. 2. K.S.A. 1999 Supp. 65-1901 is hereby repealed.
- 20 Sec. 3. This act shall take effect and be in force from and after its
- 21 publication in the statute book.

include a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device so long as the service does not include the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair

1 ~~h~~ (f) performing any other beautifying process on any person.
 2 "Cosmetology" shall not mean braiding
 3 ~~h~~ (g) "Esthetician" means any person who, for compensation prac-
 4 tices the profession of cosmetology only to the following extent:
 5 1. Performing facials, skin care and eyebrow and eyelash services;
 6 or
 7 2. Removing superfluous hair from the face or body, using either the
 8 hands or mechanical or electrical appliances other than electric needles.
 9 ~~h~~ (g) "Manicurist" means any person who, for compensation prac-
 10 tices the profession of cosmetology only to the extent of manicuring, ped-
 11 icuring and sculpturing nails.
 12 ~~h~~ (h) "Nail technology" means manicuring, pedicuring and sculp-
 13 turing nails.
 14 ~~h~~ (i) "Electrologist" means any person who, for compensation re-
 15 moves hair from, or destroys hair on, the human body for beautification
 16 by use of an electric needle only.
 17 ~~h~~ (j) "Person" means any individual, corporation, partnership, as-
 18 sociation or other entity.
 19 Sec. 2. K.S.A. 1999 Supp. 65-1901 is hereby repealed.
 20 Sec. 3. This act shall take effect and be in force from and after its
 21 publication in the statute book.

with respect to any individual who is providing hair braiding services so long as the requirements of section 2 and amendments thereto are complied with by the individual who is providing the hair braiding services

New Sec. 2. The secretary of health and environment shall develop a brochure containing information about infection control techniques which are appropriate for hair braiding outside the salon setting. This brochure shall be made available through the department's website or by mail, upon request, for a fee to cover the department's printing costs. The brochure shall contain a self-test with questions on the information contained in the brochure. For an individual engaged in hair braiding to be exempt from the practice of cosmetology under K.S.A. 65-1901 and amendments thereto, such individual shall complete the self-test part of the brochure and keep the brochure and completed self-test available at the location at which the individual is braiding hair.

And by renumbering sections accordingly

Senate Public Health and Welfare
 Date: 2-17-00
 Attachment No. 2



KANSAS MEDICAL SOCIETY

To: Senate Public Health and Welfare Committee

From: Chris Collins *Chris Collins*
Director of Government Affairs

Date: February 17, 2000

RE: SB 527; concerning felony convictions involving licensees of the healing arts

The Kansas Medical Society appreciates the opportunity to appear today in support of SB 527, which was introduced at our request.

A similar bill was introduced last year at our request. It passed the Senate unanimously and the House voted 123-1 in its favor. It was eventually defeated after a controversial amendment was added to it. This needed legislation came about as a result of a case involving a physician who several years ago obtained a license to practice in Kansas, even though he had been convicted of a serious felony in another state. He was subsequently charged with another felony due to allegations made by patients seen during the course of his practice in Kansas. He did voluntarily surrender his license to practice in Kansas as a result of those allegations. Currently, a felony conviction is one of the reasons the Board of Healing Arts may deny licensure, but it does not serve as an automatic bar. As amended, K.S.A. 65-2836 would give the board the ability to consider a felony conviction when deciding whether to grant, renew or reinstate a license.

The situation prompting this amendment is an anomaly. Frankly, this had never come up in the various policy making committees or boards of the KMS prior to this. We have always assumed the licensure process, and the required disclosures, would have identified and disqualified applicants with serious felony convictions in their past. Notwithstanding, we believe that Kansans have the right to assume that the State has done all they can to assure that the healing arts practitioners from whom they seek care and treatment merit the public trust.

One could reasonably debate that the current law is adequate to address such situations. However, the above scenario, which received extensive media attention, did much to cast doubt in the minds of the public about whether adequate protections are truly in place. As written, the bill mandates that the Board of Healing Arts utilize a higher standard than at present when reviewing applications for licensure. It requires that applicants whom have been convicted of a felony present clear and convincing evidence to the board that the applicant has been sufficiently rehabilitated to warrant the

public trust and that the licensee will not pose a threat to the public. Moreover, as amended, a two-thirds majority of the board must vote in favor of granting licensure.

In the future, conviction of a felony would trigger a higher standard of review and a higher voting threshold by the Board of Healing Arts in such cases. The proposed amendment would make licensure much more difficult, but not impossible. This will allow the board some discretion in reviewing all the facts and circumstances prior to issuing a license. There are clearly some circumstances in which too rigid a law would result in injustice. It is also clear the current law needs to be strengthened. We believe this bill strikes a fair balance and therefore we urge its favorable passage. Thank you for your attention today on this matter.

KANSAS BOARD OF HEALING ARTS

BILL GRAVES
Governor



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

MEMORANDUM

To: Senate Committee on Public Health and Welfare

From: Mark W. Stafford
General Counsel

Date: February 17, 2000

Re: Senate Bill No. 527

Chairperson Praeger and members of the Committee, thank you for the opportunity to appear before you on behalf of the Kansas State Board of Healing Arts regarding Senate Bill No. 527. This bill would create a higher level of scrutiny by the Board before a license to practice the healing arts could be granted, renewed or reinstated following a felony conviction.

The current language of this bill results from a compromise following opposition to 1999 Senate Bill No. 205. That bill in its original form would have created an absolute bar to licensing for persons who had been convicted of certain felonies. Following discussions between the Board, the Kansas Medical Society, and the Kansas Osteopathic Medical Association, it was agreed that a two-thirds vote finding that the licensee was sufficiently rehabilitated would adequately protect the public.

The Board is concerned that the current language, appearing in section 1(c), creates an administrative difficulty and is potentially unconstitutional. Persons who already have a license and a felony conviction in their past would not be allowed to renew their license without a two-thirds majority vote by the Board making the requisite finding. This would have to be voted on annually. Renewing a license is a ministerial act that does not require Board findings. Changing the process for a few would be awkward. This also might be construed as an unconstitutional ex post facto penalty. The Board suggests that for those persons who already have a license, the higher standard should apply only to future felony convictions. This standard may be applied to past felonies for those who are not currently licensed. A balloon is attached with language suggesting this change.

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR

MEMBERS OF THE BOARD
DONALD B. BLETZ, M.D., PRESIDENT
OVERLAND PARK
ROBERT L. FRAYSER, D.O., VICE-PRESIDENT
HOISINGTON

LARRY R. ANDERSON, M.D., WELLINGTON
JAMES D. EDWARDS, D.C., EMPORIA
HOWARD D. ELLIS, M.D., LEAWOOD
JOHN P. GRAVINO, D.O., LAWRENCE
SUE ICE, PUBLIC MEMBER, NEWTON
JANA D. JONES, M.D., LEAVENWORTH
LANCE E. MALMSTROM, D.C., TOPEKA

BETTY MCBRIDE, PUBLIC MEMBER, COLUMBUS
HAROLD J. SAUDER, D.P.M., INDEPENDENCE
EMILY TAYLOR, PUBLIC MEMBER, LAWRENCE

Senate Public Health and Welfare
Date: 2-17-00
Attachment No. 4

The Board also requests that other clean-up amendments be made to K.S.A. 65-2836. Those requests appear in the balloon. Subsection (i) would be amended to address the ruling in *Corder v. Kansas State Board of Healing Arts*, 256 Kan. 638 (1994). That case holds that the Board may not order a licensee to obtain a physical or mental evaluation during an investigation, but rather may do so only during a disciplinary hearing. This removes a very important investigative tool. The Board believes that it should be able to protect the public at an earlier stage in the proceeding, and that licensees should not have to be charged with violating the law before the evaluation is ordered.

Subsection (m) requires the Board to supply a standardized summary of both recommended and alternative forms of treatment of breast tissue abnormalities. This section was added to the healing arts act in 1984 to address unnecessary radical mastectomies. Other appropriate materials are readily available to the public and to physicians. In a past disciplinary case, a physician was charged with failing to provide a woman with the Board's pamphlet. The physician established that he actually had provided the woman with similar information prepared by the American Cancer Society. Seeing no purpose in punishing the physician for a technical violation of the healing arts act, the case was appropriately dismissed. The Board requests that it be relieved of the duty to publish and distribute the materials. The suggested language makes clear that a physician continues to be obligated to provide information to the woman regarding recommended and alternative forms of treatment. The negligence standard would be the rule for determining what information should be provided.

The Board also requests that a new section 2 be added to the bill to amend K.S.A. 65-2811. The only change would be to delete the length of time for which a postgraduate permit would be valid. The current language provides for a 36 month permit. But some residency programs are longer than 36 months. Thus, the Board requests that the permit be valid for the length of the residency program.

Finally, we understand that there is continued interest by committee members to amend the statutes regarding practice settings for institutional licensees. Last year, 1999 Senate Bill No. 190, as amended by this committee, passed the Senate. The proposal remains on general orders in the House. Section 4 of that bill would amend K.S.A. 1999 Supp. 65-2895 to allow certain holders of an institutional license to provide mental health services pursuant to a protocol. Senate Bill 527 might be an appropriate vehicle for pursuing the institutional license amendment.

Once again, thank you for the opportunity to appear before you. I will gladly respond to your questions.

SENATE BILL No. 527

By Committee on Judiciary

1-31

9 AN ACT concerning healing arts; relating to licensure of persons con-
10 victed of a felony; amending K.S.A. 1999 Supp. 65-2836 and repealing
11 the existing section.

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

14 Section 1. K.S.A. 1999 Supp. 65-2836 is hereby amended to read as
15 follows: 65-2836. A licensee's license may be revoked, suspended or lim-
16 ited, or the licensee may be publicly or privately censured, or an appli-
17 cation for a license or for reinstatement of a license may be denied upon
18 a finding of the existence of any of the following grounds:

19 (a) The licensee has committed fraud or misrepresentation in apply-
20 ing for or securing an original, renewal or reinstated license.

21 (b) The licensee has committed an act of unprofessional or dishon-
22 orable conduct or professional incompetency.

23 (c) The licensee has been convicted of a felony or class A misde-
24 meanor, whether or not related to the practice of the healing arts. *In the*
25 *case of a person who has been convicted of a felony who applies for an*
26 *original, renewal or reinstated license, an application for a license shall*
27 *be denied unless a 2/3 majority of the board members present and voting*
28 *on such application determine by clear and convincing evidence that such*
29 *person will not pose a threat to the public in such person's capacity as a*
30 *licensee and that such person has been sufficiently rehabilitated to war-*
31 *rant the public trust.*

32 (d) The licensee has used fraudulent or false advertisements.

33 (e) The licensee is addicted to or has distributed intoxicating liquors
34 or drugs for any other than lawful purposes.

35 (f) The licensee has willfully or repeatedly violated this act, the phar-
36 macy act of the state of Kansas or the uniform controlled substances act,
7 or any rules and regulations adopted pursuant thereto, or any rules and

ADD: The board shall revoke a licensee's license following conviction of a felony occurring after July 1, 2000 unless a 2/3 majority of the board members present and voting determine by clear and convincing evidence that such licensee will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust.

ADD: and

DELETE:

ADD: or to reinstate a canceled license, the

H-15

38 regulations of the secretary of health and environment which are relevant
to the practice of the healing arts.

40 (g) The licensee has unlawfully invaded the field of practice of any
41 branch of the healing arts in which the licensee is not licensed to practice.

42 (h) The licensee has engaged in the practice of the healing arts under
43 a false or assumed name, or the impersonation of another practitioner.

1 The provisions of this subsection relating to an assumed name shall not
2 apply to licensees practicing under a professional corporation or other
3 legal entity duly authorized to provide such professional services in the
4 state of Kansas.

5 (i) The licensee has the inability to practice ~~the branch of the healing~~ **DELETE:**
6 arts ~~for which the licensee is licensed~~ with reasonable skill and safety to **DELETE:**
7 patients by reason of illness, ~~alcoholism,~~ **ADD: alcohol, or**
8 substances, ~~chemical or any other type of material or as a result of any~~ **ADD: or condition**
9 ~~mental or physical condition.~~ **DELETE:** In determining whether or not such inability

10 exists, the board, upon reasonable suspicion of such inability, shall have
11 authority to compel a licensee to submit to mental or physical examination
12 or drug screen, or any combination thereof, by such persons as the board
13 may designate. To determine whether reasonable suspicion of such in-
14 ability exists, the investigative information shall be presented to the board
15 as a whole, to a review committee of professional peers of the licensee
16 established pursuant to K.S.A. 65-2840c and amendments thereto or to
17 a committee consisting of the officers of the board elected pursuant to
18 K.S.A. 65-2818 and amendments thereto and the executive director ap-
19 pointed pursuant to K.S.A. 65-2878 and amendments thereto **DELETE:**

**ADD: either in the course of an investigation or a disciplinary
Proceeding**

20 determination shall be made by a majority vote of the entity which re- **ADD: or to a presiding officer authorized pursuant to K.S.A. 75-**
21 viewed the investigative information. Information submitted to the board **514 and amendments thereto. The**
22 as a whole or a review committee of peers or a committee of the officers
23 and executive director of the board and all reports, findings and other
24 records shall be confidential and not subject to discovery by or release to
25 any person or entity. The licensee shall submit to the board a release of
information authorizing the board to obtain a report of such examination

27 or drug screen, or both. A person affected by this subsection shall be
 29 offered, at reasonable intervals, an opportunity to demonstrate that such
 30 person can resume the competent practice of the healing arts with rea-
 31 sonable skill and safety to patients. For the purpose of this subsection,
 32 every person licensed to practice the healing arts and who shall accept
 33 the privilege to practice the healing arts in this state by so practicing or
 34 by the making and filing of an annual renewal to practice the healing arts
 35 in this state shall be deemed to have consented to submit to a mental or
 36 physical examination or a drug screen, or any combination thereof, when
 37 directed in writing by the board and further to have waived all objections
 38 to the admissibility of the testimony, drug screen or examination report
 39 of the person conducting such examination or drug screen, or both, at
 40 any proceeding or hearing before the board on the ground that such
 41 testimony or examination or drug screen report constitutes a privileged
 42 communication. In any proceeding by the board pursuant to the provi-
 43 sions of this subsection, the record of such board proceedings involving
 the mental and physical examination or drug screen, or any combination

1 thereof, shall not be used in any other administrative or judicial
 2 proceeding.

3 (j) The licensee has had a license to practice the healing arts revoked,
 4 suspended or limited, has been censured or has had other disciplinary
 5 action taken, or an application for a license denied, by the proper licensing
 6 authority of another state, territory, District of Columbia, or other coun-
 7 try, a certified copy of the record of the action of the other jurisdiction
 8 being conclusive evidence thereof.

9 (k) The licensee has violated any lawful rule and regulation promul-
 10 gated by the board or violated any lawful order or directive of the board
 11 previously entered by the board.

12 (l) The licensee has failed to report or reveal the knowledge required
 13 to be reported or revealed under K.S.A. 65-28,122 and amendments
 14 thereto.

15 (m) The licensee, if licensed to practice medicine and surgery, has

4-6

17 breast tissue for which surgery is a recommended form of treatment, of
 19 alternative methods of treatment ~~specified in the standardized summary~~
 20 ~~supplied by the board. The standardized summary shall be given to each~~
 21 ~~patient specified herein as soon as practicable and medically indicated~~
 22 ~~following diagnosis, and this shall constitute compliance with the require-~~
 23 ~~ments of this subsection. The board shall develop and distribute to per-~~
 24 ~~sons licensed to practice medicine and surgery a standardized summary~~
 25 ~~of the alternative methods of treatment known to the board at the time~~
 26 ~~of distribution of the standardized summary, including surgical, radiolog-~~
 27 ~~ical or chemotherapeutic treatments or combinations of treatments and~~
 28 ~~the risks associated with each of these methods. Nothing in this subsection~~
 29 ~~shall be construed or operate to empower or authorize the board to re-~~
 30 ~~strict in any manner the right of a person licensed to practice medicine~~
 31 ~~and surgery to recommend a method of treatment or to restrict in any~~
 32 ~~manner a patient's right to select a method of treatment. The standard-~~
 33 ~~ized summary shall not be construed as a recommendation by the board~~
 34 ~~of any method of treatment. The preceding sentence or words having the~~
 35 ~~same meaning shall be printed as a part of the standardized summary:~~
 36 ~~The provisions of this subsection shall not be effective until the stan-~~
 37 ~~dardized written summary provided for in this subsection is developed~~
 38 ~~and printed and made available by the board to persons licensed by the~~
 39 ~~board to practice medicine and surgery.~~

DELETE:

39 (n) The licensee has cheated on or attempted to subvert the validity
 40 of the examination for a license.

41 (o) The licensee has been found to be mentally ill, disabled, not guilty
 42 by reason of insanity, not guilty because the licensee suffers from a mental
 43 disease or defect or incompetent to stand trial by a court of competent

ADD: recognized by licensees of the same profession in the
 same or similar communities as being acceptable under
 like conditions and circumstances

1 jurisdiction.

2 (p) The licensee has prescribed, sold, administered, distributed or
 3 given a controlled substance to any person for other than medically ac-
 4 cepted or lawful purposes.

5 (q) The licensee has violated a federal law or regulation relating to

5 (q) The licensee has violated a federal law or regulation relating to controlled substances.

7 (r) The licensee has failed to furnish the board, or its investigators or representatives, any information legally requested by the board.

8
9 (s) Sanctions or disciplinary actions have been taken against the licensee by a peer review committee, health care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

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13 (t) The licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

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19 (u) The licensee has surrendered a license or authorization to practice the healing arts in another state or jurisdiction, has surrendered the authority to utilize controlled substances issued by any state or federal agency, has agreed to a limitation to or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

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27 (v) The licensee has failed to report to the board surrender of the licensee's license or authorization to practice the healing arts in another state or jurisdiction or surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

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33 (w) The licensee has an adverse judgment, award or settlement against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

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40 (x) The licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this

section.

(y) The licensee has failed to maintain a policy of professional liability

insurance as required by K.S.A. 40-3402 or 40-3403a and amendments thereto.

(z) The licensee has failed to pay the annual premium surcharge as required by K.S.A. 40-3404 and amendments thereto.

(aa) The licensee has knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill or statement.

(bb) The licensee as the responsible physician for a physician's assistant has failed to adequately direct and supervise the physician's assistant in accordance with K.S.A. 65-2896 to 65-2897a, inclusive, and amendments thereto, or rules and regulations adopted under such statutes.

(cc) The licensee has assisted suicide in violation of K.S.A. 21-3406 as established by any of the following:

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

(B) A copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 1999 Supp. 60-4404 and amendments thereto.

(C) A copy of the record of a judgment assessing damages under K.S.A. 1999 Supp. 60-4405 and amendments thereto.

Sec. 23 . K.S.A. 1999 Supp. 65-2836 is hereby repealed.

Sec. 34. This act shall take effect and be in force from and after its publication in the statute book.

ADD: 65-2811 and

ADD: are ←

ADD: New Sec. 2. K.S.A. 1999 Supp. 65-2811 is hereby amended to read as follows: 65-2811. (a) The board may issue a temporary permit to practice the appropriate branch of the healing arts to any person who has made proper application for a license by endorsement, has the required qualifications for such license and has paid the prescribed fees, and such permit, when issued, shall authorize the person receiving the permit to practice within the limits of the permit until the license is issued or denied by the board, but no more than one such temporary permit shall be issued to any one person without the approval of 2/3 of the members of the board.

(b) The board may issue a postgraduate permit to practice the appropriate branch of the healing arts to any person who is engaged in a full time, approved postgraduate training program; has made proper application for such postgraduate permit upon forms approved by the board; meets all qualifications of licensure, except the examinations required under K.S.A. 65-2873 and amendments thereto and postgraduate training, as required by this act; has paid the prescribed fees established by the board for such postgraduate permit; has passed such examinations in the basic and clinical sciences approved under rules and regulations adopted by the board; and, if the person is a graduate of a foreign medical school, has passed an examination given by the educational commission for foreign medical graduates.

(c) The postgraduate permit issued under subsection (b); when issued, shall be valid for a period not to exceed 36 months and shall authorize the person receiving the permit to practice the appropriate branch of the healing arts in the postgraduate training program while continuously so engaged but shall not authorize the person receiving the permit to engage in the private practice of the . . .

8-7

SENATE BILL No. 527

AN ACT concerning healing arts; actions against licensees; temporary permits; amending K.S.A. 1999 Supp. 65-2811 and 65-2836, and repealing the existing sections.

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

Section 1. K.S.A. 1999 Supp. 65-2836 is hereby amended to read as follows: 65-2836. A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

(a) The licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license.

(b) The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency.

(c) The licensee has been convicted of a felony or class A misdemeanor, whether or not related to the practice of the healing arts. ***The board shall revoke a licensee's license following conviction of a felony occurring after July 1, 2000 unless a 2/3 majority of the board members present and voting determine by clear and convincing evidence that such licensee will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust.*** ~~*In the case of a person who has been convicted of a felony and who applies for an original, renewal or reinstated license an or to reinstate a canceled license, the application shall be denied unless 2/3 majority of the board members present and voting determine by clear and convincing evidence that such licensee will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust.*~~

(d) The licensee has used fraudulent or false advertisements.

(e) The licensee is addicted to or has distributed intoxicating liquors or drugs for any other than lawful purposes.

(f) The licensee has willfully or repeatedly violated this act, the pharmacy act of the state of Kansas or the uniform controlled substances act, or any rules and regulations adopted pursuant thereto, or any rules and regulations of the secretary of health and environment which are relevant to the practice of the healing arts.

(g) The licensee has unlawfully invaded the field of practice of any branch of the healing arts in which the licensee is not licensed to practice.

(h) The licensee has engaged in the practice of the healing arts under a false or assumed name, or the impersonation of another practitioner. The provisions of this subsection relating to an assumed name shall not apply to licensees practicing under a professional corporation or other legal entity duly authorized to provide such professional services in the state of Kansas.

(i) The licensee has the inability to practice ~~the branch of~~ the healing arts ~~for which the licensee is licensed~~ with reasonable skill and safety to patients by reason of *physical or mental illness or condition, alcoholism, excessive or* use of *alcohol*, drugs, *or* controlled substances;

chemical or any other type of material or as a result of any mental or physical condition. In determining whether or not such inability exists, the board, upon reasonable suspicion of such inability, shall have authority to compel a licensee to submit to mental or physical examination or drug screen, or any combination thereof, by such persons as the board may designate, *either in the course of an investigation or a disciplinary proceeding.* To determine whether reasonable suspicion of such inability exists, the investigative information shall be presented to the board as a whole, to a review committee of professional peers of the licensee established pursuant to K.S.A. 65-2840c and amendments thereto, or to a committee consisting of the officers of the board elected pursuant to K.S.A. 65-2818 and amendments thereto and the executive director appointed pursuant to K.S.A. 65-2878 and amendments thereto, *or to a presiding officer authorized pursuant to K.S.A. 77-514 and amendments thereto.* ~~and the~~ **The** determination shall be made by a majority vote of the entity which reviewed the investigative information. Information submitted to the board as a whole or a review committee of peers or a committee of the officers and executive director of the board and all reports, findings and other records shall be confidential and not subject to discovery by or release to any person or entity. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such examination or drug screen, or both. A person affected by this subsection shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of the healing arts with reasonable skill and safety to patients. For the purpose of this subsection, every person licensed to practice the healing arts and who shall accept the privilege to practice the healing arts in this state by so practicing or by the making and filing of an annual renewal to practice the healing arts in this state shall be deemed to have consented to submit to a mental or physical examination or a drug screen, or any combination thereof, when directed in writing by the board and further to have waived all objections to the admissibility of the testimony, drug screen or examination report of the person conducting such examination or drug screen, or both, at any proceeding or hearing before the board on the ground that such testimony or examination or drug screen report constitutes a privileged communication. In any proceeding by the board pursuant to the provisions of this subsection, the record of such board proceedings involving the mental and physical examination or drug screen, or any combination thereof, shall not be used in any other administrative or judicial proceeding.

(j) The licensee has had a license to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(k) The licensee has violated any lawful rule and regulation promulgated by the board or violated any lawful order or directive of the board previously entered by the board.

(l) The licensee has failed to report or reveal the knowledge required to be reported or revealed under K.S.A. 65-28,122 and amendments thereto.

(m) The licensee, if licensed to practice medicine and surgery, has failed to inform a patient suffering from any form of abnormality of the breast tissue for which surgery is a recommended form of treatment, of alternative methods of treatment **specified in the standardized summary supplied by the board. The standardized summary shall be given to each patient specified herein as soon as practicable and medically indicated following diagnosis, and this shall constitute compliance with the requirements of this subsection.**

~~The board shall develop and distribute to persons licensed to practice medicine and surgery a standardized summary of the alternative methods of treatment known to the board at the time of distribution of the standardized summary, including surgical, radiological or chemotherapeutic treatments or combinations of treatments and the risks associated with each of these methods. Nothing in this subsection shall be construed or operate to empower or authorize the board to restrict in any manner the right of a person licensed to practice medicine and surgery to recommend a method of treatment or to restrict in any manner a patient's right to select a method of treatment. The standardized summary shall not be construed as a recommendation by the board of any method of treatment. The preceding sentence or words having the same meaning shall be printed as a part of the standardized summary. The provisions of this subsection shall not be effective until the standardized written summary provided for in this subsection is developed and printed and made available by the board to persons licensed by the board to practice medicine and surgery *recognized by licensees of the same profession in the same or similar communities as being acceptable under like conditions and circumstances.*~~

(n) The licensee has cheated on or attempted to subvert the validity of the examination for a license.

(o) The licensee has been found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or incompetent to stand trial by a court of competent jurisdiction.

(p) The licensee has prescribed, sold, administered, distributed or given a controlled substance to any person for other than medically accepted or lawful purposes.

(q) The licensee has violated a federal law or regulation relating to controlled substances.

(r) The licensee has failed to furnish the board, or its investigators or representatives, any information legally requested by the board.

(s) Sanctions or disciplinary actions have been taken against the licensee by a peer review committee, health care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(t) The licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(u) The licensee has surrendered a license or authorization to practice the healing arts in another state or jurisdiction, has surrendered the authority to utilize controlled substances issued by any state or federal agency, has agreed to a limitation to or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(v) The licensee has failed to report to the board surrender of the licensee's license or authorization to practice the healing arts in another state or jurisdiction or surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(w) The licensee has an adverse judgment, award or settlement against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(x) The licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(y) The licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a and amendments thereto.

(z) The licensee has failed to pay the annual premium surcharge as required by K.S.A. 40-3404 and amendments thereto.

(aa) The licensee has knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill or statement.

(bb) The licensee as the responsible physician for a physician's assistant has failed to adequately direct and supervise the physician's assistant in accordance with K.S.A. 65-2896 to 65-2897a, inclusive, and amendments thereto, or rules and regulations adopted under such statutes.

(cc) The licensee has assisted suicide in violation of K.S.A. 21-3406 as established by any of the following:

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

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

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

Sec. 2 K.S.A. 65-2811 is hereby amended to read as follows: 65-2811. (a) The board may issue a temporary permit to practice the appropriate branch of the healing arts to any person who has made proper application for a license by endorsement, has the required qualifications for such license and has paid the prescribed fees, and such permit, when issued, shall authorize the person receiving the permit to practice within the limits of the permit until the license is issued or denied by the board, but no more than one such temporary permit shall be issued to any one person without the approval of 2/3 of the members of the board.

(b) The board may issue a postgraduate permit to practice the appropriate branch of the healing arts to any person who is engaged in a full time, approved postgraduate training program; has made proper application for such postgraduate permit upon forms approved by the board; meets all qualifications of licensure, except the examinations required under K.S.A. 65-2873 and amendments thereto and postgraduate training, as required by this act; has paid the prescribed fees established by the board for such postgraduate permit; has passed such examinations in the basic and clinical sciences approved under rules and regulations adopted by the board; and, if the person is a graduate of a foreign medical school, has passed an examination given by the educational commission for foreign medical graduates.

(c) The postgraduate permit issued under subsection (b), when issued, shall be valid for a period not to exceed 36 months and shall authorize the person receiving the permit to

practice the appropriate branch of the healing arts in the postgraduate training program while continuously so engaged but shall not authorize the person receiving the permit to engage in the private practice of the healing arts.

(d) A postgraduate permit issued under subsection (b) shall be canceled if:

(1) The holder thereof ceases to be engaged in the postgraduate training program; or

(2) the holder thereof has engaged in the practice of the healing arts outside of the postgraduate training program.

Sec. 2 3. K.S.A. 1999 Supp. 65-2811 and 65-2836 is *are* hereby repealed.

Sec. 3 4. This act shall take effect and be in force from and after its publication in the statute book.



KANSAS VETERINARY MEDICAL ASSOCIATION, INC.

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

FAX: (913) 233-2534

Testimony

Senate Public Health and Welfare Committee

10:00 a.m. Thursday, Feb. 17

Room 526 South

State Capitol Building

Senator Praeger and members of the Senate Public Health and Welfare Committee, my name is Gary Reser. I am executive director of the Kansas Veterinary Medical Association (KVMA), the Association representing the Kansas veterinary profession.

The KVMA has approximately 750 members in Kansas and about 400 in all other states.

The KVMA supports **S.B. 527**. The bill is also supported by the Kansas Board of Veterinary Examiners, the regulatory board for the Kansas veterinary profession.

The KVMA and the Kansas Board of Veterinary Examiners respectfully request that the Committee allows the enclosed amendment to be added to **S.B. 527** as it relates to **KSA 1999 Supp. 47-830**, the Kansas Veterinary Practice Act.

Thank you very much for allowing me to be here today and for considering this request.

Senate Public Health and Welfare

Date: 2-17-00

Attachment No. 5

5-2

SENATE BILL No. 527

By Committee on Judiciary

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AN ACT concerning ~~healing arts, relating to~~ licensure of persons convicted of a felony; amending K.S.A. 1999 Supp. 65-2836 and repealing the existing ~~Section~~

the
47-830 and
sections

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

Section 1. K.S.A. 1999 Supp. 65-2836 is hereby amended to read as follows: 65-2836. A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

- (a) The licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license.
- (b) The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency.
- (c) The licensee has been convicted of a felony or class A misdemeanor, whether or not related to the practice of the healing arts. *In the case of a person who has been convicted of a felony who applies for an original, renewal or reinstated license, an application for a license shall be denied unless a 2/3 majority of the board members present and voting on such application determine by clear and convincing evidence that such person will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust.*
- (d) The licensee has used fraudulent or false advertisements.
- (e) The licensee is addicted to or has distributed intoxicating liquors or drugs for any other than lawful purposes.
- (f) The licensee has willfully or repeatedly violated this act, the pharmacy act of the state of Kansas or the uniform controlled substances act, or any rules and regulations adopted pursuant thereto, or any rules and regulations of the secretary of health and environment which are relevant to the practice of the healing arts.
- (g) The licensee has unlawfully invaded the field of practice of any branch of the healing arts in which the licensee is not licensed to practice.
- (h) The licensee has engaged in the practice of the healing arts under a false or assumed name, or the impersonation of another practitioner.

1 The provisions of this subsection relating to an assumed name shall not
2 apply to licensees practicing under a professional corporation or other
3 legal entity duly authorized to provide such professional services in the
4 state of Kansas.

5 (i) The licensee has the inability to practice the branch of the healing
6 arts for which the licensee is licensed with reasonable skill and safety to
7 patients by reason of illness, alcoholism, excessive use of drugs, controlled
8 substances, chemical or any other type of material or as a result of any
9 mental or physical condition. In determining whether or not such inability
10 exists, the board, upon reasonable suspicion of such inability, shall have
11 authority to compel a licensee to submit to mental or physical examination
12 or drug screen, or any combination thereof, by such persons as the board
13 may designate. To determine whether reasonable suspicion of such ina-
14 bility exists, the investigative information shall be presented to the board
15 as a whole, to a review committee of professional peers of the licensee
16 established pursuant to K.S.A. 65-2840c and amendments thereto or to
17 a committee consisting of the officers of the board elected pursuant to
18 K.S.A. 65-2818 and amendments thereto and the executive director ap-
19 pointed pursuant to K.S.A. 65-2878 and amendments thereto, and the
20 determination shall be made by a majority vote of the entity which re-
21 viewed the investigative information. Information submitted to the board
22 as a whole or a review committee of peers or a committee of the officers
23 and executive director of the board and all reports, findings and other
24 records shall be confidential and not subject to discovery by or release to
25 any person or entity. The licensee shall submit to the board a release of
26 information authorizing the board to obtain a report of such examination
27 or drug screen, or both. A person affected by this subsection shall be
28 offered, at reasonable intervals, an opportunity to demonstrate that such
29 person can resume the competent practice of the healing arts with rea-
30 sonable skill and safety to patients. For the purpose of this subsection,
31 every person licensed to practice the healing arts and who shall accept
32 the privilege to practice the healing arts in this state by so practicing or
33 by the making and filing of an annual renewal to practice the healing arts
34 in this state shall be deemed to have consented to submit to a mental or
35 physical examination or a drug screen, or any combination thereof, when
36 directed in writing by the board and further to have waived all objections
37 to the admissibility of the testimony, drug screen or examination report
38 of the person conducting such examination or drug screen, or both, at
39 any proceeding or hearing before the board on the ground that such
40 testimony or examination or drug screen report constitutes a privileged
41 communication. In any proceeding by the board pursuant to the provi-
42 sions of this subsection, the record of such board proceedings involving
43 the mental and physical examination or drug screen, or any combination

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1 thereof, shall not be used in any other administrative or judicial
2 proceeding.

3 (j) The licensee has had a license to practice the healing arts revoked,
4 suspended or limited, has been censured or has had other disciplinary
5 action taken, or an application for a license denied, by the proper licensing
6 authority of another state, territory, District of Columbia, or other coun-
7 try, a certified copy of the record of the action of the other jurisdiction
8 being conclusive evidence thereof.

9 (k) The licensee has violated any lawful rule and regulation promul-
10 gated by the board or violated any lawful order or directive of the board
11 previously entered by the board.

12 (l) The licensee has failed to report or reveal the knowledge required
13 to be reported or revealed under K.S.A. 65-28,122 and amendments
14 there:to.

15 (m) The licensee, if licensed to practice medicine and surgery, has
16 failed to inform a patient suffering from any form of abnormality of the
17 breast tissue for which surgery is a recommended form of treatment, of
18 alternative methods of treatment specified in the standardized summary
19 supplied by the board. The standardized summary shall be given to each
20 patient specified herein as soon as practicable and medically indicated
21 following diagnosis, and this shall constitute compliance with the require-
22 ments of this subsection. The board shall develop and distribute to per-
23 sons licensed to practice medicine and surgery a standardized summary
24 of the alternative methods of treatment known to the board at the time
25 of dis-tribution of the standardized summary, including surgical, radiolog-
26 ical or chemotherapeutic treatments or combinations of treatments and
27 the risks associated with each of these methods. Nothing in this subsection
28 shall be construed or operate to empower or authorize the board to re-
29 strict in any manner the right of a person licensed to practice medicine
30 and surgery to recommend a method of treatment or to restrict in any
31 manner a patient's right to select a method of treatment. The standard-
32 ized summary shall not be construed as a recommendation by the board
33 of any method of treatment. The preceding sentence or words having the
34 same meaning shall be printed as a part of the standardized summary.
35 The provisions of this subsection shall not be effective until the stan-
36 dardized written summary provided for in this subsection is developed
37 and p-rinted and made available by the board to persons licensed by the
38 board to practice medicine and surgery.

39 (n) The licensee has cheated on or attempted to subvert the validity
40 of the examination for a license.

41 (o) The licensee has been found to be mentally ill, disabled, not guilty
42 by reason of insanity, not guilty because the licensee suffers from a mental
43 disease or defect or incompetent to stand trial by a court of competent

1 jurisdiction.

2 (p) The licensee has prescribed, sold, administered, distributed or
3 given a controlled substance to any person for other than medically ac-
4 cepted or lawful purposes.

5 (q) The licensee has violated a federal law or regulation relating to
6 controlled substances.

7 (r) The licensee has failed to furnish the board, or its investigators or
8 representatives, any information legally requested by the board.

9 (s) Sanctions or disciplinary actions have been taken against the li-
10 censee by a peer review committee, health care facility, a governmental
11 agency or department or a professional association or society for acts or
12 conduct similar to acts or conduct which would constitute grounds for
13 disciplinary action under this section.

14 (t) The licensee has failed to report to the board any adverse action
15 taken against the licensee by another state or licensing jurisdiction, a peer
16 review body, a health care facility, a professional association or society, a
17 governmental agency, by a law enforcement agency or a court for acts or
18 conduct similar to acts or conduct which would constitute grounds for
19 disciplinary action under this section.

20 (u) The licensee has surrendered a license or authorization to practice
21 the healing arts in another state or jurisdiction, has surrendered the au-
22 thority to utilize controlled substances issued by any state or federal
23 agency, has agreed to a limitation to or restriction of privileges at any
24 medical care facility or has surrendered the licensee's membership on any
25 professional staff or in any professional association or society while under
26 investigation for acts or conduct similar to acts or conduct which would
27 constitute grounds for disciplinary action under this section.

28 (v) The licensee has failed to report to the board surrender of the
29 licensee's license or authorization to practice the healing arts in another
30 state or jurisdiction or surrender of the licensee's membership on any
31 professional staff or in any professional association or society while under
32 investigation for acts or conduct similar to acts or conduct which would
33 constitute grounds for disciplinary action under this section.

34 (w) The licensee has an adverse judgment, award or settlement
35 against the licensee resulting from a medical liability claim related to acts
36 or conduct similar to acts or conduct which would constitute grounds for
37 disciplinary action under this section.

38 (x) The licensee has failed to report to the board any adverse judg-
39 ment, settlement or award against the licensee resulting from a medical
40 malpractice liability claim related to acts or conduct similar to acts or
41 conduct which would constitute grounds for disciplinary action under this
42 section.

43 (y) The licensee has failed to maintain a policy of professional liability

1 insurance as required by K.S.A. 40-3402 or 40-3403a and amendments
2 thereto.

3 (z) The licensee has failed to pay the annual premium surcharge as
4 required by K.S.A. 40-3404 and amendments thereto.

5 (aa) The licensee has knowingly submitted any misleading, deceptive,
6 untrue or fraudulent representation on a claim form, bill or statement.

7 (bb) The licensee as the responsible physician for a physician's assist-
8 ant has failed to adequately direct and supervise the physician's assistant
9 in accordance with K.S.A. 65-2896 to 65-2897a, inclusive, and amend-
10 ments thereto, or rules and regulations adopted under such statutes.

11 (cc) The licensee has assisted suicide in violation of K.S.A. 21-3406
12 as established by any of the following:

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

15 (B) A copy of the record of a judgment of contempt of court for
16 violating an injunction issued under K.S.A. 1999 Supp. 60-4404 and
17 amendments thereto.

18 (C) A copy of the record of a judgment assessing damages under
19 K.S.A. 1999 Supp. 60-4405 and amendments thereto.

20 Sec. 2. K.S.A. 1999 Supp. 65-2836 is hereby repealed.

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

47-830 and

are

Sec. 2 (See attached)

Renumber remaining sections accordingly

Sec. 2. K.S.A. 1999 Supp. 47-830 is hereby amended to read as follows: 47-830.
The board, in accordance with the provisions of the Kansas administrative procedure act, may revoke or suspend for a time certain the license of, or otherwise limit, condition, reprimand, restrict, deny a license or assess a fine, not to exceed \$2,000, to any licensed veterinarian for any of the following reasons:

- (a) The employment of fraud, misrepresentation or deception in obtaining a license;
- (b) an adjudication of incapacity by a court of competent jurisdiction;
- (c) for having professional connection with or lending one's name to any illegal practitioner of veterinary medicine and the various branches thereof;
- (d) false or misleading advertising;
- (e) conviction of a felony . *In the case of a person who has been convicted of a felony who applies for an original, renewal or reinstated license, an application for a license shall be denied unless a 2/3 majority of the board members present and voting on such application determine by clear and convincing evidence that such person will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust ;*
- (f) failure to furnish to the board, upon written request, any report or information relating to any investigation;
- (g) employing, contracting with or utilizing in any manner any person in the unlawful practice of veterinary medicine;
- (h) fraud or dishonest conduct in applying, treating or reporting diagnostic biological tests of public health significance or in issuing health certificates;
- (i) failure of the veterinarian who is responsible for the operation and management of a veterinary premises to keep the veterinary premises in compliance with minimum standards established by rules and regulations as to sanitary conditions and physical plant;
- (j) failure to report as required by law, or making false report of any contagious or infectious disease;
- (k) dishonesty or negligence in the inspection of foodstuffs;
- (l) cruelty or inhumane treatment to animals;
- (m) disciplinary action taken by another state, territory or district of the United States or any foreign country on grounds other than nonpayment of registration fees;
- (n) disclosure of any information in violation of K.S.A. 47-839, and amendments thereto;

(o) unprofessional conduct as defined in rules and regulations adopted by the board includes, but is not limited to, the following:

(1) Conviction of a charge of violating any federal statutes or any statute of this state, regarding substances as defined in K.S.A. 65-4101, and amendments thereto;

(2) using unless lawfully prescribed, prescribing or administering to oneself or another person any of the controlled substances as defined in K.S.A. 65-4101, and amendments thereto, or using, prescribing or administering any of the controlled substances as defined in K.S.A. 65-4101 and amendments thereto or alcoholic beverages or any other drugs, chemicals or substances to the extent, or in such a manner as to be dangerous or injurious to a person licensed under the Kansas veterinary practice act, to oneself or to any other person or to the public, or to the extent that such use impairs the ability of such person so licensed to conduct with safety the practice authorized by the license;

(3) the conviction of more than one misdemeanor or any felony involving the use, consumption or self-administration of any of the substances referred to in this section or any combination thereof; and

(4) violation of or attempting to violate, directly or indirectly, any provision of the Kansas veterinary practice act or any rules and regulations adopted pursuant to such act;

(p) conviction of a crime substantially related to qualifications, functions or duties of veterinary medicine, surgery or dentistry;

(q) employment of anyone but a veterinarian licensed in Kansas to demonstrate the use of biologics in the treatment of animals;

(r) fraud, deception, negligence or incompetence in the practice of veterinary medicine;

(s) the use, prescription, administration, dispensation or sale of any veterinary prescription drug or the prescription of an extra-label use of any over-the-counter drug in the absence of a valid veterinarian-client-patient relationship;

(t) failing to furnish details or copies of a patient's medical records or failing to provide reasonable access to or a copy of a patient's radiographs to another treating veterinarian, hospital or clinic, upon the written request of and authorization from an owner or owner's agent, or failing to provide the owner or owner's agent with a summary of the medical record within a reasonable period of time and upon proper request by the owner or owner's agent, or failing to comply with any other law relating to medical records; or

(u) determination that the veterinarian is impaired, as defined in subsection (c) of K.S.A. 47-846 and amendments thereto, by a representative of the impaired veterinarian committee, or as determined by the board after a hearing.



Proposed Substitute for SB527

By C. Wheelen
February 17, 2000

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

Section 1. K.S.A. 65-2824 is hereby amended to read as follows: 65-2824. Any person desiring to take the examination for a license hereunder shall make application to the board on a form provided by the board and sworn to by the applicant. Such application shall specify that branch of the healing arts in which the applicant desires to be examined and shall be accompanied by the prescribed examination fee and such documents and affidavits as are necessary to show the eligibility of the candidate to take such examination. Such application shall indicate whether the applicant has ever been convicted of a felony or class A misdemeanor crime. All applications shall be filed in the form, within the time, and in accordance with the rules of the board.

Sec. 2. K.S.A. 65-2833 is hereby amended to read as follows: 65-2833. The board, without examination, may issue a license to a person who has been in the active practice of a branch of the healing arts in some other state, territory, the District of Columbia or other country upon certificate of the proper licensing authority of that state, territory, District of Columbia or other country certifying that the applicant is duly licensed, that the applicant's license has never been limited, suspended or revoked, that the licensee has never been censured or had other disciplinary action taken and that, so far as the records of such authority are concerned, the applicant is entitled to its endorsement. The applicant shall inform the board whether the applicant has ever been convicted of a felony or class A misdemeanor crime and shall also present proof satisfactory to the board:

- (a) That the state, territory, District of Columbia or country in which the applicant last practiced has and maintains standards at least equal to those maintained by Kansas.
- (b) That the applicant's original license was based upon an examination at least equal in quality to the examination required in this state and that the passing grade required to obtain such original license was comparable to that required in this state.
- (c) Of the date of the applicant's original and any and all endorsed licenses and the date and place from which any license was attained.
- (d) That the applicant has been actively engaged in practice under such license or licenses since issued, and if not, fix the time when and reason why the applicant was out of practice.
- (e) That the applicant has a reasonable ability to communicate in English.

An applicant for endorsement registration shall not be licensed unless the applicant's individual qualifications meet the Kansas legal requirements. In lieu of any other requirement prescribed by law for satisfactory passage of any examination in any branch of the healing arts the board may accept evidence satisfactory to it that the applicant or licensee has satisfactorily passed an equivalent examination given by a national board of examiners in chiropractic, osteopathic medicine and surgery or medicine and surgery as now required by Kansas statutes for endorsement from other states.

Sec. 3. K.S.A. 1999 Supp. 65-2836 is hereby amended to read as follows: 65-2836. An application for an original license or reinstatement of a license by a person who has been convicted of a felony crime shall be denied unless a 2/3 majority of the board members present and voting on such application determine that such person will not likely pose a threat to the public in such person's capacity as a licensee. A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

- (a) The licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license.
- (b) The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency.
- (c) The licensee has been convicted of a felony or class A misdemeanor, whether or not related to the practice of the healing arts.
- (d) The licensee has used fraudulent or false advertisements.
- (e) The licensee is addicted to or has distributed intoxicating liquors or drugs for any other than lawful purposes.
- (f) The licensee has willfully or repeatedly violated this act, the pharmacy act of the state of Kansas or the uniform controlled substances act, or any rules and regulations adopted pursuant thereto, or any rules and regulations of the secretary of health and environment which are relevant to the practice of the healing arts.
- (g) The licensee has unlawfully invaded the field of practice of any branch of the healing arts in which the licensee is not licensed to practice.
- (h) The licensee has engaged in the practice of the healing arts under a false or assumed name, or the impersonation of another practitioner. The provisions of this subsection relating to an assumed name shall not apply to licensees practicing under a professional corporation or other legal entity duly authorized to provide such professional services in the state of Kansas. The licensee has the inability to practice the branch of the healing arts for which the licensee is licensed with reasonable skill and safety to patients by reason of illness, alcoholism, excessive use of drugs, controlled substances, chemical or any other type of material or as a result of any mental or physical condition. In determining whether or not such inability exists, the board, upon reasonable suspicion of such inability, shall have authority to compel a licensee to submit to mental or physical examination or drug screen, or any combination thereof, by such persons as the board may designate. To determine whether reasonable suspicion of such inability exists, the investigative information shall be presented to the board as a whole, to a review committee of professional peers of the licensee established pursuant to K.S.A. 65-2840c and amendments thereto or to a committee consisting of the officers of the board elected pursuant to K.S.A. 65-2818 and amendments thereto and the executive director appointed pursuant to K.S.A. 65-2878 and amendments thereto, and the determination shall be made by a majority vote of the entity which reviewed the investigative information. Information submitted to the board as a whole or a review committee of peers or a committee of the officers and executive director of the board and all reports, findings and other records shall be confidential and not subject to discovery by or release to any person or entity. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such examination or drug screen, or both. A person affected by this subsection shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of the healing arts with reasonable skill and safety to patients. For the purpose of this subsection, every person licensed to practice the healing arts and who shall accept the privilege to practice the healing arts in this state by so practicing or by the making and filing of an annual renewal to practice the healing arts in this state shall be deemed to have consented to submit to a mental or physical

examination or a drug screen, or any combination thereof, when directed in writing by the board and further to have waived all objections to the admissibility of the testimony, drug screen or examination report of the person conducting such examination or drug screen, or both, at any proceeding or hearing before the board on the ground that such testimony or examination or drug screen report constitutes a privileged communication. In any proceeding by the board pursuant to the provisions of this subsection, the record of such board proceedings involving the mental and physical examination or drug screen, or any combination thereof, shall not be used in any other administrative or judicial proceeding.

(j) The licensee has had a license to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(k) The licensee has violated any lawful rule and regulation promulgated by the board or violated any lawful order or directive of the board previously entered by the board.

(l) The licensee has failed to report or reveal the knowledge required to be reported or revealed under K.S.A. 65-28,122 and amendments thereto.

(m) The licensee, if licensed to practice medicine and surgery, has failed to inform a patient suffering from any form of abnormality of the breast tissue for which surgery is a recommended form of treatment, of alternative methods of treatment specified in the standardized summary supplied by the board. The standardized summary shall be given to each patient specified herein as soon as practicable and medically indicated following diagnosis, and this shall constitute compliance with the requirements of this subsection. The board shall develop and distribute to persons licensed to practice medicine and surgery a standardized summary of the alternative methods of treatment known to the board at the time of distribution of the standardized summary, including surgical, radiological or chemotherapeutic treatments or combinations of treatments and the risks associated with each of these methods. Nothing in this subsection shall be construed or operate to empower or authorize the board to restrict in any manner the right of a person licensed to practice medicine and surgery to recommend a method of treatment or to restrict in any manner a patient's right to select a method of treatment. The standardized summary shall not be construed as a recommendation by the board of any method of treatment. The preceding sentence or words having the same meaning shall be printed as a part of the standardized summary. The provisions of this subsection shall not be effective until the standardized written summary provided for in this subsection is developed and printed and made available by the board to persons licensed by the board to practice medicine and surgery.

(n) The licensee has cheated on or attempted to subvert the validity of the examination for a license.

(o) The licensee has been found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or incompetent to stand trial by a court of competent jurisdiction.

(p) The licensee has prescribed, sold, administered, distributed or given a controlled substance to any person for other than medically accepted or lawful purposes.

(q) The licensee has violated a federal law or regulation relating to controlled substances.

(r) The licensee has failed to furnish the board, or its investigators or representatives, any information legally requested by the board.

(s) Sanctions or disciplinary actions have been taken against the licensee by a peer review committee, health care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(t) The licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(u) The licensee has surrendered a license or authorization to practice the healing arts in another state or jurisdiction, has surrendered the authority to utilize controlled substances issued by any state or federal agency, has agreed to a limitation to or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(v) The licensee has failed to report to the board surrender of the licensee's license or authorization to practice the healing arts in another state or jurisdiction or surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(w) The licensee has an adverse judgment, award or settlement against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(x) The licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(y) The licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a and amendments thereto.

(z) The licensee has failed to pay the annual premium surcharge as required by K.S.A. 40-3404 and amendments thereto.

(aa) The licensee has knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill or statement.

(bb) The licensee as the responsible physician for a physician's assistant has failed to adequately direct and supervise the physician's assistant in accordance with K.S.A. 65-2896 to 65-2897a, inclusive, and amendments thereto, or rules and regulations adopted under such statutes.

(cc) The licensee has assisted suicide in violation of K.S.A. 21-3406 as established by any of the following:

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

(B) A copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 1999 Supp. 60-4404 and amendments thereto.

(C) A copy of the record of a judgment assessing damages under K.S.A. 1999 Supp. 60-4405 and amendments thereto.

Sec. 4. K.S.A. 65-2824 and 65-2833 and K.S.A. 1999 Supp. 65-2836 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

TESTIMONY ON SB599
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
17 FEBRUARY 2000

Senator Praeger and members of the committee:

I am Loretta Hoerman and I represent the Kansas Academy of Physician Assistants (KAPA) as legislative chair and past president. I work as a physician assistant in Family Practice here in Topeka. Thank you for allowing me to speak to you today. With my written testimony, we have also provided you with the KAPA position paper regarding licensure for physician assistants as written by Jim Sperry, who was the legislative chair and president elect for our association. Jim was tragically killed in a car accident on February 6, 2000.

I want to provide some information for you to consider when reviewing our licensure bill. We realize that there are several licensure bills in the legislature this year, but we ask that we be considered on our own merit. We ask that you recognize that this is a change in nomenclature and that we are not requesting any changes in our scope of practice. Physician Assistants are already regulated here in Kansas, and have been for nearly 30 years. This bill does not ask to regulate a new profession. Our bill is supported by the Kansas Medical Society, the Kansas Association of Osteopathic Medicine and the Kansas Board of Healing Arts.

Historically, registration was felt to be the most appropriate level of regulation when legislation was first enacted regarding physician assistants in Kansas in 1973. Since that time, our profession has proven its value to the citizens of Kansas in providing quality health care, often in underserved areas, working with physicians and maintaining our commitment to dependent practice. We have no intention of changing our position as dependent practitioners and we continue to strive to provide quality health care. Licensure will help us achieve these goals by clarifying our position in the health care field, as well as illuminating our level of training and regulation. As physician assistants in Kansas, our credentials are inspected and verified by the Kansas Board of Healing Arts who also controls our scope of practice and disciplines our members. We are treated as licensed practitioners, but called registrants. The Pew Health Commission recommended that regulatory language regarding physician assistants be standardized and understandable for consumers, provider organizations, businesses and professions. Physician assistants are now licensed in 38 states and the District of Columbia. While licensure in no way changes what we do, it includes physician assistants in health care legislation that refers to "licensed practitioners". Many third party payers refer to licensed providers and thereby unintentionally exclude physician assistant services in Kansas. This creates a barrier to health care access. It is important to point out that physician assistants do not directly receive third party reimbursement. Reimbursement goes to the supervising physician or the practice. Licensure will not financially benefit the physician assistant.

When applying for hospital privileges, malpractice coverage or in applying to be providers for managed health care companies, physician assistants are asked for our licenses. This year's survey from the Department of Health and Environment that was included with every physician assistant's registration renewal repeatedly referred to the Kansas physician assistant license. Obviously there is some confusion.

A member of the Kansas Board of Healing Arts recently commented that physician assistants "deserve" licensure. We feel that the state of Kansas deserves to have quality care provided by practitioners who are designated by the most rigorous standard of credential, one that is understood by the public.

We ask for your support in licensure for physician assistants.

Kansas Academy of Physician Assistants
Issue Brief

Licensure of Physician Assistants in Kansas

BACKGROUND

In 1973, the Kansas Legislature enacted statutes, which called for the regulation of persons practicing as physician assistants (PAs). That legislation, which established the level of regulation at registration, made it illegal for persons to hold themselves out to the public and call themselves physician assistants without holding specific credentials and registering with the Kansas Board of Healing Arts (KBOHA). In 1988, additional legislation was enacted which allowed physician assistants to transmit written drug orders pursuant to written protocol with the supervising physician. Finally, on April 1, 2000, the laws again change, allowing supervising physicians to delegate to PAs the authority to write prescriptions for controlled substances and to request, receive and distribute professional pharmaceutical samples.

During this evolution of regulations governing the profession, the emphasis has remained on the physician assistant being a member of a physician directed team, providing effective, appropriate, quality care. The history of the physician/physician assistant team relationship has always been one of physician directed care. At no time have physician assistants moved toward independent practice, nor do we have any intention to do so in the future. The physician assistant provides health care services in the manner directed by their supervising physician. The physician assistant practices within guidelines established through dialog between the supervising physician and the physician assistant. In a recent policy statement, the American Medical Association strongly recommended that those guidelines should be "mutually agreed upon guidelines that are developed by the physician and the physician assistant." Laws and practice guidelines governing the physician - PA team should serve to preserve and strengthen the traditional practice relationship.

The Kansas Academy of Physician Assistants, in keeping with these principles, seeks a change in the law that currently regulates PAs in Kansas. KAPA proposes that PAs in Kansas should be licensed rather than registered. There is ample precedent for this change. The 1999 Kansas Legislature enacted legislation, which calls for the change from registration to licensure, for respiratory therapists. This is the first dependent health care profession to be regulated at the level of licensure, thus refuting a long-held opinion that licensure is a privilege reserved only for those who practice independently.

THE ISSUE

Licensure is the most appropriate form of regulation for physician assistants for the following reasons:

- Licensure is the regulatory term the public understands. Regulation should be easily understood by those it is intended to protect.
- Licensure is the most rigid form of regulation, requiring not only the listing by the Kansas Board of Healing Arts of those who meet qualifications to practice, but providing the KBOHA with:
 - 1) the tools to gather more detailed applicant information prior to issuing a license to practice in Kansas and
 - 2) the clearly defined authority to discipline any unprofessional conduct and prohibit unqualified providers from practicing as physician assistants.

- Many state and federal health care regulations and programs meant to include PAs are not open to PAs in Kansas because Kansas PAs are not licensed.
- Insurance policies that are intended to include all PAs generally refer to "licensed providers". This excludes PAs registered in Kansas. This creates a barrier to access for patients covered by those plans.

CONCLUSION

In the current health care environment, cost-effective, affordable, quality care must be easily accessible to all those living in the state of Kansas. Without the use of physician assistants, this accessibility is greatly threatened, particularly in rural areas. All Kansans deserve high quality, easily accessible health care, in all settings. By holding physician assistants to a higher level of regulation, quality of health care providers will be protected. thereby improving the overall health care environment in Kansas.

By seeking a change to licensure, physician assistants are actually asking for a more rigid oversight. Licensure is the most restrictive form of regulation. It denies unlicensed persons the authority to practice. Registration is less rigorous. It creates a list of practitioners who have met specified standards. While it is illegal to present oneself as a registered physician assistant without actually registering with the KBOHA, such a violation is not considered a serious infraction, is difficult to enforce and does not prevent those who are not qualified from providing inappropriate patient care.

Physician assistants serve as an extension of their supervising physician. In some of our rural areas, the physician assistant is the only source of primary health care available on a daily basis. A physician assistant can perform a wide range of medical duties, from basic health care to high technology specialties. All these duties are performed under the supervision and direction of the supervising physician, governed by the mutually agreed upon practice guidelines.

A change from registration to licensure is an important measure that will insure that physician assistants are held to appropriately high standards, and remove barriers to a physician's ability to effectively utilize a physician assistant. Currently, physician assistants are licensed in 39 states and jurisdictions, certified in 7, registered in 4 and not regulated in 1.

KANSAS BOARD OF HEALING ARTS

BILL GRAVES
Governor



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

MEMORANDUM

To: Senate Committee on Public Health and Welfare

From: Mark W. Stafford
General Counsel

Date: February 17, 2000

Re: Senate Bill No. 599

Chairperson Praeger and members of the Committee, thank you for the opportunity to appear before you on behalf of the Kansas State Board of Healing Arts and in support of Senate Bill No. 599. This bill would credential physician assistants through licensure rather than through the current method of registration.

The Board voted at its December, 1999 meeting to support the efforts of physician assistants as they seek licensure. At that time, a final bill version was not available. The current version of Senate Bill 599 was presented to the Board for discussion at its February 12, 2000 meeting. The Board again voted to support physician assistant licensing, and has asked Board staff to work with the proponents to strengthen some of the current language of the bill. There was not sufficient time to present those issues in a balloon, but we should be able to agree upon and present a balloon within a day or two.

Once again, thank you for the opportunity to appear. I will gladly respond to your questions.

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR

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EMILY TAYLOR, PUBLIC MEMBER, LAWRENCE

Senate Public Health and Welfare
Date: 2-17-00
Attachment No. 8

Christian Science Committee on Publication For Kansas

700 SW Jackson St., Suite 807
Topeka, Kansas 66603-3758

e-mail cscocom@cjnetworks.com

Phone 785-233-7483
Fax 785-233-4182

February 17, 2000

To: Senate Committee on Public Health and Welfare

Re: Senate Bill No. 599

Senate Bill No. 599 includes in its amendments to K.S.A. 65-2896c(c), on pages 7 and 8 of the bill, a list of persons not included in the act. Page 7, lines 21-23, which defines one group to be excluded from the act, reads:

“(3) The members of any church practicing their religious tenets provided they shall not be exempt from complying with all public health regulations of the state.”

We request that the language presently in the bill be replaced with the following:


“(3) Individuals practicing religious beliefs which provide for reliance on spiritual means alone for healing.”

The language requested to be replaced copies wording that has been in place for many years in the Kansas healing arts act and, while it has served very well, is somewhat dated. I have been told that there is no definition for, or clear understanding of, the phrase, “public health regulations of the state.” The requested change will more clearly define who is to be excluded from the provisions of this act. We believe the requested change also will better protect the public.

We requested this change in the healing arts act in a bill that did not pass in the 1998 session. There was no objection to the proposed amendment at that time. We expect to offer the amendment again when an appropriate bill is available.

If you choose not to make this change, an alternative would be to put a period after “tenets” and strike the remainder through line 23.

Obviously, we can continue under the language proposed by the bill’s sponsors as we have done for many years, and we are grateful that it was included in the bill. However, it seems that this is the proper time to improve the statutes in a way that should benefit many while injuring none.


Keith R. Landis
Committee on Publication
for Kansas

Senate Public Health and Welfare
Date: 2-17-00
Attachment No. 9



KANSAS MEDICAL SOCIETY

To: Senate Public Health and Welfare Committee

From: Chris Collins *Chris Collins*
Director of Government Affairs

Date: February 17, 2000

RE: SB 599; Licensure of Physician Assistants

The Kansas Medical Society appreciates the opportunity to appear today in support of SB 599, which elevates the status of physician assistants from registrants to licensees of the Board of Healing Arts.

KMS respects the education and training of the physician assistant community. They perform many integral functions within the health care team. KMS supports their request for licensure and generally supports the language contained within SB 599. Notwithstanding, there is one section of the bill which we feel requires additional consideration. It is well understood by both practice communities and by the Board of Healing Arts that the tasks and practices undertaken by physician assistants are delegated by their responsible physicians. Therefore, the language in Sec. 6 on page nine, lines eight through twenty-four, which addresses their scope of practice, is unnecessary and creates a source of possible confusion.

KMS supports the passage of SB 599, with the deletion of the above noted section. Thank you for considering our comments.