

Approved: _____

4-7-00
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 March 21, 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:

Others attending: See attached list

Action on HB 2700 - Criteria for employment in adult care homes and home health agencies

Senator Hardenburger, Chair of the Subcommittee on **HB 2700**, noted the Subcommittee agreed with the House version of the bill and recommended amendments to the bill that would clarify the issue of adding conspiracy to commit crimes in the bill as shown in a balloon of **HB 2700**. (Attachment 1)

During Committee discussion Senator Becker expressed his concern with the issue of private contractors conducting background checks that may be more efficient and accurate than the current procedure done by the KBI. It was noted that some providers near the state line will sometimes access a national data base, and private contractors provide that service. The definition of conspiracy was also discussed by the Committee.

Senator Hardenburger made a motion to adopt the amendments shown in the balloon of the bill, seconded by Senator Bleeker. The motion carried. Senator Becker voted No.

Senator Hardenburger made a motion that the Committee recommend **HB 2700 as amended** favorably for passage, seconded by Senator Bleeker. The motion carried. Senator Becker voted No.

Action on HB 2755 - Prohibitions and restrictions on disclosure of certain information by the Department of Health and Environment

Staff briefed the Committee on a balloon of the bill showing proposed amendments to **HB 2755**. (Attachment 2) The Committee suggested adding additional language, "or denied", to the amendment shown in the balloon of the bill to be inserted on page 1, line 25, after the period which would now read: "A maternity center or child care facility that has had a license suspended, revoked or denied by the secretary of health and environment or a family day care home that has had a certificate of registration suspended, revoked or denied by the secretary of health and environment shall notify in writing the parents or guardians of the enrollees of the issuance, suspension or revocation.

Senator Hardenburger made a motion to adopt the balloon of the bill with the additional language, seconded by Senator Langworthy. The motion carried.

Senator Hardenburger made a motion that the Committee recommend **HB 2755 as amended** favorably for passage, seconded by Senator Becker. The motion carried.

Action on SB 398 - Addiction counselor licensure act

Senator Salmans briefed the Committee on a balloon of the bill showing proposed amendments and also requested that language be deleted in the bill that would change the makeup of the board as shown in Section 14. (Attachment 3)

Senator Salmans made a motion that the balloon of the bill be adopted and language relating to the expansion of the board in Section 14 and throughout the bill be deleted, seconded by Senator Hardenburger. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S, Statehouse, at 10:00 a.m. on March 21, 2000.

Senator Salmans made a motion that the Committee recommend **SB 398 as amended** favorably for passage, seconded by Senator Steineger. The motion carried.

The Chair noted that the board's composition has been an on-going issue for some time, and pointed out that the new BSRB Executive Director, Phyllis Gilmore, plans to look at the board's composition and the whole structure of how the board does its work. Instead of the Committee mandating changes regarding the board's composition at this time, it was suggested the Committee may want to consider other ways for the board to function more efficiently.

Commission Discussion and Action on Naturopathy

The Chair brought the Committee's attention to a proposed substitute bill relating to the issue of naturopathy. (Attachment 4) The substitute bill would clarify that persons who recommend or furnish natural medicines and remedies which are not prescription-only drugs would be exempt from the Healing Arts Act. The Chair pointed out that a court case will be heard in the Kansas Supreme Court on April 18, 2000 (State Board of Healing Arts vs. Stanley W. Beyrle) that may provide additional guidance on the subject. It was noted that a request will be submitted by the Committee recommending the study of naturopathy by the Health Care Legislative Oversight Committee during the interim.

Senator Steineger asked for clarification from Larry Buening, Executive Director, Kansas Board of Healing Arts, if items listed under the definition of "naturopathic physical medicine" in **SB 593**, Section 2 (g) would be considered "remedies." Mr. Buening noted that a portion of the modalities listed in that section would be. However, there are certain machines that are prescription-only devices that perform a function or therapy and these devices can only be used by licensed practitioners. The definition of such practitioners is broader than just MD's, DO's. Chiropractors may use a prescription-only device as long as it is not medicine or surgery. He also pointed out that "remedy" would not include acupuncture since a Supreme Court case decided it may only be performed by licensees of the healing arts or persons acting under the supervision or direction of a licensee. However, with these exceptions, the substitute bill would be more expansive of what Chinese practitioners could do with natural medicine remedies.

During Committee discussion it was suggested to insert "or devices" in subsection (q) of the substitute bill after the word "drugs". Subsection (q) relates to persons who would be exempt from the Healing Arts Act and would now read: "Persons who recommend or furnish natural medicines and remedies which are not prescription-only drugs or devices."

Senator Jones made a motion to adopt the amendment and the technical changes in the substitute bill, and that the Committee recommend **Substitute for SB 593 as amended** favorably for passage.

Chris Collins, Kansas Medical Society, expressed her opposition to the substitute bill because she felt that naturopathy would be accepted as a proven method. The Chair noted that the bill as drafted does not state that naturopathy is a proven method, but rather naturopathy would not be regulated. Further study would be made on the subject during the interim.

The Chair called the Committee's attention to the motion made by Senator Jones. Senator Bleeker seconded the motion. The motion carried.

Approval of Minutes

Senator Jones made a motion to approve the Committee minutes of March 13, 14, 15, 16, 17 and 20, 2000, seconded by Senator Bleeker. The motion carried.

Adjournment

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

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: 3-21-00

NAME	REPRESENTING
Tom Bell	KHA
Rick Guthrie	Health Midwest
Tom Rickman	AVENTIS
Lesla Bray	KDHE
Dennis Highberger	KDHE
Kevin Berene	Men/wear chrd
Marlene Jolley	J&S
OTZehn	KANSA
Nancy Zogelman	Pfizer
Chris Bond	Lilly
Jessica Bowman	KHACA
John Kiefhaber	Ks Health Care Assn.
Rod EisenbARTH	KADACA
Craig Collins	KADACA
Chris Collins	Kansas Medical Society
Sarah Kenyon	HNS
Tim Wood	VCHS
SHELBY Smith	KNASW
LARRY BUENING	BD OF HEALING ARTS

Chip Wheeler

Osteopathic Association

HOUSE BILL No. 2700

By Committee on Health and Human Services

1-24

Proposed Amendments to House Bill No. 2700

10 AN ACT concerning certain providers of care services; employment of
11 persons by such providers; amending K.S.A. 1999 Supp. 39-970 and
12 65-5117 and repealing the existing sections.

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

15 Section 1. K.S.A. 1999 Supp. 39-970 is hereby amended to read as
16 follows: 39-970. (a) (1) ~~On and after July 1, 1999;~~ No person shall know-
17 ingly operate an adult care home if, in the adult care home, there works
18 any person who has been convicted of or has been adjudicated a juvenile
19 offender because of having committed an act which if done by an adult
20 would constitute the commission of capital murder, pursuant to K.S.A.
21 21-3439 and amendments thereto, first degree murder, pursuant to
22 K.S.A. 21-3401 and amendments thereto, second degree murder, pur-
23 suant to subsection (a) of K.S.A. 21-3402 and amendments thereto, vol-
24 untary manslaughter, pursuant to K.S.A. 21-3403 and amendments
25 thereto, assisting suicide pursuant to K.S.A. 21-3406 and amendments
26 thereto, mistreatment of a dependent adult, pursuant to K.S.A. 21-3437
27 and amendments thereto, rape, pursuant to K.S.A. 21-3502 and amend-
28 ments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503
29 and amendments thereto, aggravated indecent liberties with a child, pur-
30 suant to K.S.A. 21-3504 and amendments thereto, aggravated criminal
31 sodomy, pursuant to K.S.A. 21-3506 and amendments thereto, indecent
32 solicitation of a child, pursuant to K.S.A. 21-3510 and amendments
33 thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-
34 3511 and amendments thereto, sexual exploitation of a child, pursuant to
35 K.S.A. 21-3516 and amendments thereto, sexual battery, pursuant to
36 K.S.A. 21-3517 and amendments thereto, or aggravated sexual battery,
37 pursuant to K.S.A. 21-3518 and amendments thereto, ~~an attempt to com-~~
38 ~~mit any of the crimes enumerated herein, pursuant to K.S.A. 21-3301 and~~
39 ~~amendments thereto, a conspiracy to commit any of the crimes enumer-~~
40 ~~ated herein, pursuant to K.S.A. 21-3302 and amendments thereto, or~~
41 ~~criminal solicitation of any of the crimes enumerated herein pursuant to~~
42 ~~K.S.A. 21-3303 and amendments thereto,~~ or similar statutes of other states
43 or the federal government.

Senate Public Health & Welfare
Date: 3-21-00
Attachment No. 1

1 (2) ~~On and after July 1, 1998,~~ A person operating an adult care home
 2 may employ an applicant who has been convicted of any of the following
 3 if five or more years have elapsed since the applicant satisfied the sen-
 4 tence imposed or was discharged from probation, a community correc-
 5 tional services program, parole, postrelease supervision, conditional re-
 6 lease or a suspended sentence; or if five or more years have elapsed since
 7 the applicant has been finally discharged from the custody of the com-
 8 missioner of juvenile justice or from probation or has been adjudicated a
 9 juvenile offender, whichever time is longer: A felony conviction for a
 10 crime which is described in: (A) article 34 of chapter 21 of the Kansas
 11 Statutes Annotated and amendments thereto, except those crimes listed
 12 in subsection (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas
 13 Statutes Annotated and amendments thereto, except those crimes listed
 14 in subsection (a)(1) and K.S.A. 21-3605 and amendments thereto; (C) ~~a~~
 15 ~~conviction of an attempt under K.S.A. 21-3301 and amendments thereto~~
 16 ~~to commit any act listed in this subsection or subsection (a)(1); or (D)~~
 17 similar statutes of other states or the federal government.

18 (b) No person shall operate an adult care home if such person has
 19 been found to be a disabled person in need of a guardian or conservator,
 20 or both.

21 (c) (1) The secretary of health and environment shall have access to
 22 any criminal history record information in the possession of the Kansas
 23 bureau of investigation concerning persons working in an adult care
 24 home. The secretary shall have access to these records for the purpose
 25 of determining whether or not the adult care home meets the require-
 26 ments of this section. The Kansas bureau of investigation may charge to
 27 the department of health and environment a reasonable fee for providing
 28 criminal history record information under this subsection.

29 (2) *The operator of an adult care home shall be deemed in compliance*
 30 *with this section provided that the operator obtains the same or better*
 31 *criminal history record information from a private contractor approved*
 32 *by the Kansas bureau of investigation. If a private contractor deter-*
 33 *mines that a person is prohibited from working in an adult care*
 34 *home under this section, the private contractor shall notify the*
 35 *department of health and environment of such person's name and*
 36 *the reasons for such determination.*

37 (d) For the purpose of complying with this section, the operator of
 38 an adult care home shall request from the department of health and
 39 environment information obtained by the secretary of health and envi-
 40 ronment, *or information from an approved private contractor*, which re-
 41 lates to a person who works in the adult care home, or is being considered
 42 for employment by the adult care home, for the purpose of determining
 43 whether such person is subject to the provision of this section. For the

an attempt to commit any of the crimes enumerated herein, pursuant to K.S.A. 21-3301 and amendments thereto; (D) a conspiracy to commit any of the crimes enumerated herein, pursuant to K.S.A. 21-3302 and amendments thereto; or (E)

1 purpose of complying with this section, the operator of an adult care home
2 shall receive from any employment agency which provides employees to
3 work in the adult care home written certification that such employees are
4 not prohibited from working in the adult care home under this section.
5 For the purpose of complying with this section, information relating to
6 convictions and adjudications by the federal government or to convictions
7 and adjudications in states other than Kansas shall not be required until
8 such time as the secretary of health and environment determines the
9 search for such information could reasonably be performed and the in-
10 formation obtained within a two-week period. For the purpose of com-
11 plying with this section, a person who operates an adult care home may
12 hire an applicant for employment on a conditional basis pending the re-
13 sults from the department of health and environment of a request for
14 information under this subsection. No adult care home, the operator or
15 employees of an adult care home or an employment agency, or the op-
16 erator or employees of an employment agency, shall be liable for civil
17 damages resulting from any decision to employ, to refuse to employ or
18 to discharge from employment any person based on such adult care
19 home's compliance with the provisions of this section if such adult care
20 home or employment agency acts in good faith to comply with this
21 section.

22 (e) The secretary of health and environment shall charge each person
23 requesting information under this section a fee equal to cost, not to ex-
24 ceed \$10, for each name about which an information request has been
25 submitted to the department under this section.

26 (f) No person who works for an adult care home and who is currently
27 licensed or registered by an agency of this state to provide professional
28 services in the state and who provides such services as part of the work
29 which such person performs for the adult care home shall be subject to
30 the provisions of this section.

31 (g) (1) *The secretary of health and environment shall provide each*
32 *person requesting information under this section with the ~~unredacted~~*
33 *criminal history record information provided by the Kansas bureau of*
34 *investigation, including any felony convictions of offenses other*
35 *than those enumerated in subsection (a), regardless of whether the*
36 *information discloses that the subject of the request has been convicted of*
37 *an offense enumerated in subsection (a) of this section.*

38 (2) *The secretary of health and environment shall provide each person*
39 *requesting information under this section with the ~~unredacted~~ criminal*
40 *history record information within three business days of receipt of such*
41 *information from the Kansas bureau of investigation.*

42 (3) *The secretary of health and environment shall provide each person*
43 *requesting information under this section, in writing and within three*

1-21

1 *business days after receipt of such information from the Kansas bureau*
2 *of investigation, whenever the criminal history record information reveals*
3 *that the subject of the request has not been convicted of an offense enu-*
4 *merated in subsection (a) of this section.*

5 ~~(g)~~ (h) A person who volunteers in an adult care home shall not be
6 subject to the provisions of this section because of such volunteer activity.

7 ~~(h)~~ (i) No person who has been employed by the same adult care
8 home for five consecutive years immediately prior to the effective date
9 of this act shall be subject to the provisions of this section while employed
10 by such adult care home.

11 ~~(i)~~ (j) The operator of an adult care home shall not be required under
12 this section to conduct a background check on an applicant for employ-
13 ment with the adult care home if the applicant has been the subject of a
14 background check under this act within one year prior to the application
15 for employment with the adult care home. The operator of an adult care
16 home where the applicant was the subject of such background check may
17 release a copy of such background check to the operator of an adult care
18 home where the applicant is currently applying.

19 ~~(j)~~ (k) No person who is in the custody of the secretary of corrections
20 and who provides services, under direct supervision in nonpatient areas,
21 on the grounds or other areas designated by the superintendent of the
22 Kansas soldiers' home or the Kansas veterans' home shall be subject to
23 the provisions of this section while providing such services.

24 ~~(k)~~ (l) This section shall be part of and supplemental to the adult care
25 home licensure act.

26 Sec. 2. K.S.A. 1999 Supp. 65-5117 is hereby amended to read as
27 follows: 65-5117. (a) (1) ~~On and after July 1, 1998;~~ No person shall know-
28 ingly operate a home health agency if, for the home health agency, there
29 works any person who has been convicted of or has been adjudicated a
30 juvenile offender because of having committed an act which if done by
31 an adult would constitute the commission of capital murder, pursuant to
32 K.S.A. 21-3439 and amendments thereto, first degree murder, pursuant
33 to K.S.A. 21-3401 and amendments thereto, second degree murder, pur-
34 suant to subsection (a) of K.S.A. 21-3402 and amendments thereto, vol-
35 untary manslaughter, pursuant to K.S.A. 21-3403 and amendments
36 thereto, assisting suicide, pursuant to K.S.A. 21-3406 and amendments
37 thereto, mistreatment of a dependent adult, pursuant to K.S.A. 21-3437
38 and amendments thereto, rape, pursuant to K.S.A. 21-3502 and amend-
39 ments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503
40 and amendments thereto, aggravated indecent liberties with a child, pur-
41 suant to K.S.A. 21-3504 and amendments thereto, aggravated criminal
42 sodomy, pursuant to K.S.A. 21-3506 and amendments thereto, indecent
43 solicitation of a child, pursuant to K.S.A. 21-3510 and amendments

1-5

1 thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-
 2 3511 and amendments thereto, sexual exploitation of a child, pursuant to
 3 K.S.A. 21-3516 and amendments thereto, sexual battery, pursuant to
 4 K.S.A. 21-3517 and amendments thereto, or aggravated sexual battery,
 5 pursuant to K.S.A. 21-3518 and amendments thereto, *an attempt to com-*
 6 *mit any of the crimes enumerated herein, pursuant to K.S.A. 21-3301 and*
 7 *amendments thereto, a conspiracy to commit any of the crimes enumer-*
 8 *ated herein, pursuant to K.S.A. 21-3302 and amendments thereto, or*
 9 *criminal solicitation of any of the crimes enumerated herein pursuant to*
 10 *K.S.A. 21-3303 and amendments thereto, or similar statutes of other states*
 11 *or the federal government.*

12 (2) ~~On and after July 1, 1998;~~ A person operating a home health
 13 agency may employ an applicant who has been convicted of any of the
 14 following if five or more years have elapsed since the applicant satisfied
 15 the sentence imposed or was discharged from probation, a community
 16 correctional services program, parole, postrelease supervision, conditional
 17 release or a suspended sentence; or if five or more years have elapsed
 18 since the applicant has been finally discharged from the custody of the
 19 commissioner of juvenile justice or from probation or has been adjudi-
 20 cated a juvenile offender, whichever time is longer: A felony conviction
 21 for a crime which is described in: (A) article 34 of the Kansas Statutes
 22 Annotated and amendments thereto, except those crimes listed in sub-
 23 section (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes
 24 Annotated and amendments thereto, except those crimes listed in sub-
 25 section (a)(1) and K.S.A. 21-3605 and amendments thereto; (C) ~~a con-~~
 26 ~~vicition of an attempt under K.S.A. 21-3301 and amendments thereto to~~
 27 ~~commit any act listed in this subsection or subsection (a)(1), or (D)~~ similar
 28 statutes of other states or the federal government.

an attempt to commit any of the crimes enumerated herein, pursuant
 to K.S.A. 21-3301 and amendments thereto; (D) a conspiracy to
 commit any of the crimes enumerated herein, pursuant to K.S.A.
 21-3302 and amendments thereto; or (E)

29 (b) No person shall operate a home health agency if such person has
 30 been found to be a disabled person in need of a guardian or conservator,
 31 or both.

32 (c) (1) The secretary of health and environment shall have access to
 33 any criminal history record information in the possession of the Kansas
 34 bureau of investigation concerning persons working for a home health
 35 agency. The secretary shall have access to these records for the purpose
 36 of determining whether or not the home health agency meets the require-
 37 ments of this section. The Kansas bureau of investigation may charge to
 38 the department of health and environment a reasonable fee for providing
 39 criminal history record information under this subsection.

40 (2) *The operator of a home health agency shall be deemed in compli-*
 41 *ance with this section provided that the operator obtains the same or*
 42 *better criminal history record information from a private contractor ap-*
 43 *proved by the Kansas bureau of investigation. If a private contractor*

1 determines that a person is prohibited from working in an adult
2 care home under this section, the private contractor shall notify
3 the department of health and environment of such person's name
4 and the reasons for such determination.

5 (d) For the purpose of complying with this section, the operator of a
6 home health agency shall request from the department of health and
7 environment information obtained by the secretary of health and envi-
8 ronment, *or information from an approved private contractor*, which re-
9 lates to a person who works for the home health agency or is being con-
10 sidered for employment by the home health agency, for the purpose of
11 determining whether such person is subject to the provisions of this sec-
12 tion. For the purpose of complying with this section, information relating
13 to convictions and adjudications by the federal government or to convic-
14 tions and adjudications in states other than Kansas shall not be required
15 until such time as the secretary of health and environment determines
16 the search for such information could reasonably be performed and the
17 information obtained within a two-week period. For the purpose of com-
18 plying with this section, a person who operates a home health agency may
19 hire an applicant for employment on a conditional basis pending the re-
20 sults from the department of health and environment of a request for
21 information under this subsection. No home health agency, the operator
22 or employees of a home health agency or an employment agency, or the
23 operator or employees of an employment agency, which provides em-
24 ployees to work for the home health agency shall be liable for civil dam-
25 ages resulting from any decision to employ, to refuse to employ or to
26 discharge from employment any person based on such home health
27 agency's compliance with the provisions of this section if such home
28 health agency or employment agency acts in good faith to comply with
29 this section.

30 (e) The secretary of health and environment shall charge each person
31 requesting information under this section a fee equal to cost, not to ex-
32 ceed \$10, for each name about which an information request has been
33 submitted under this section.

34 (f) No person who works for a home health agency and who is cur-
35 rently licensed or registered by an agency of this state to provide profes-
36 sional services in this state and who provides such services as part of the
37 work which such person performs for the home health agency shall be
38 subject to the provisions of this section.

39 (g) (1) *The secretary of health and environment shall provide each*
40 *person requesting information under this section with the ~~unredacted~~*
41 *criminal history record information provided by the Kansas bureau of*
42 *investigation, including any felony convictions of offenses other*
43 *than those enumerated in subsection (a), regardless of whether the*

1-6

1 *information discloses that the subject of the request has been convicted of*
2 *an offense enumerated in subsection (a) of this section.*

3 (2) *The secretary of health and environment shall provide each person*
4 *requesting information under this section with the ~~unredacted~~ criminal*
5 *history record information within three business days of receipt of such*
6 *information from the Kansas bureau of investigation.*

7 (3) *The secretary of health and environment shall provide each person*
8 *requesting information under this section, in writing and within three*
9 *business days after receipt of such information from the Kansas bureau*
10 *of investigation, whenever the criminal history record information reveals*
11 *that the subject of the request has not been convicted of an offense enu-*
12 *merated in subsection (a) of this section.*

13 ~~(g)~~ (h) *A person who volunteers to assist a home health agency shall*
14 *not be subject to the provisions of this section because of such volunteer*
15 *activity.*

16 ~~(h)~~ (i) *No person who has been employed by the same home health*
17 *agency for five consecutive years immediately prior to the effective date*
18 *of this act shall be subject to the requirements of this section while em-*
19 *ployed by such home health agency.*

20 ~~(i)~~ (j) *The operator of a home health agency shall not be required*
21 *under this section to conduct a background check on an applicant for*
22 *employment with the home health agency if the applicant has been the*
23 *subject of a background check under this act within one year prior to the*
24 *application for employment with the home health agency. The operator*
25 *of a home health agency where the applicant was the subject of such*
26 *background check may release a copy of such background check to the*
27 *operator of a home health agency where the applicant is currently*
28 *applying.*

29 ~~(j)~~ (k) *This section shall be part of and supplemental to the provisions*
30 *of article 51 of chapter 65 of the Kansas Statutes Annotated and acts*
31 *amendatory thereof or supplemental thereto.*

32 *Sec. 3. K.S.A. 1999 Supp. 39-970 and 65-5117 are hereby repealed.*

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

HOUSE BILL No. 2755

By Committee on Health and Human Services

1-31

Proposed Amendments to House Bill No. 2755

10 AN ACT concerning the department of health and environment; discl-
11 sure of certain information in possession thereof; prohibitions and re-
12 strictions on disclosure; amending K.S.A. 1999 Supp. 65-506 and 65-
13 525 and repealing the existing sections.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. K.S.A. 1999 Supp. 65-506 is hereby amended to read as
17 follows: 65-506. The secretary of health and environment shall serve no-
18 tice of the issuance, suspension or revocation of a license to conduct a
19 maternity center or child care facility or the issuance, suspension or rev-
20 ocation of a certificate of registration for a family day care home to the
21 secretary of social and rehabilitation services, ~~to the juvenile justice au-~~
22 *thority, department of education, office of the state fire marshal,* county,
23 city-county or multi-county department of health, and to any *licensed*
24 *child placement agency or licensed* child care resource and referral agency
25 serving the area where the center or facility is located. Neither the sec-
26 retary of social and rehabilitation services nor any other person shall place
27 or cause to be placed any maternity patient or child under 16 years of
28 age in any maternity center or child care facility not licensed by the sec-
29 retary of health and environment or family day care home not holding a
30 certificate of registration from the secretary of health and environment.

31 Sec. 2. K.S.A. 1999 Supp. 65-525 is hereby amended to read as fol-
32 lows: 65-525. ~~Except as otherwise provided in K.S.A. 1999 Supp. 65-531~~
33 ~~and amendments thereto, information received by the licensing agency~~
34 ~~through filed reports, inspections or otherwise authorized under K.S.A.~~
35 ~~65-501 to 65-522, inclusive, and amendments thereto shall not be dis-~~
36 ~~closed publicly in such manner as to identify individuals (a) Information~~
37 ~~in the possession of the department of health and environment that iden-~~
38 ~~tifies individuals, except for individuals operating a child care facility or~~
39 ~~a family day care home, shall not be released publicly, unless required by~~
40 ~~law~~ received pursuant to K.S.A. 65-501 *et seq.* regarding child care
41 facilities, maternity centers or family day care homes shall not be
42 released publicly in a manner that would identify individuals, un-
43 less required by law.

A maternity center or child care facility that has had a license
suspended, ~~or revoked~~ ^{or denied} by the secretary of health and environment or
a family day care home that has had a certificate of registration
suspended or revoked ^{or denied} by the secretary of health and environment shall
notify in writing the parents or guardians of the enrollees of the
issuance, suspension or revocation.

amended

2-7

1 (b) ~~An individual applying for or renewing a license or certificate of~~
 2 ~~registration to operate a day care home or family foster home may request~~
 3 ~~in writing that the department of health and environment not disclose~~
 4 ~~publicly personal information of the individual, including street address~~
 5 ~~and telephone number. If the department receives written notice, the per-~~
 6 ~~sonal information of an individual licensed or registered to operate a day~~
 7 ~~care home or family foster home shall not be released publicly, unless~~
 8 ~~required by law or if the information is contained in an order as defined~~
 9 ~~in subsection (d) of K.S.A. 77-502, and amendments thereto.~~ **The name,**
 10 **address and telephone number of a child care facility, maternity**
 11 **center or family day care home shall not be released publicly un-**
 12 **less required by law.**

13 (c) Information that cannot be released by subsection (a) or (b) may
 14 be released to: (1) An agency or organization authorized to receive notice
 15 under K.S.A. 65-506, and amendments thereto; (2) a criminal justice
 16 agency; (3) any state or federal agency that ~~regulates child care~~ **provides**
 17 **child care services or provides child protective services; or (4) an or-**
 18 ~~ganization of persons who are licensed or registered child care providers~~
 19 ~~for membership, informational or other purposes related to child care, or~~
 20 ~~(5) an organization providing professional or vocational training or ed-~~
 21 ~~ucation for the sole purpose of providing individuals with training or~~
 22 ~~education required by regulation. any federal agency for the purposes~~
 23 **of compliance with federal funding requirements.**

24 (d) Any state or federal agency receiving information under subsec-
 25 tion (a) or (b) shall not disseminate the information without the consent
 26 of the ~~individual~~ **person whose information will be disseminated un-**
 27 ~~less required by law, the information is directly related to the adminis-~~
 28 ~~tration of the agency's program or if the information is contained in an~~
 29 ~~order as defined in subsection (d) of K.S.A. 77-502, and amendments~~
 30 ~~thereto.~~ Any person, other than a state or federal agency, receiving infor-
 31 mation under subsection (a) or (b) shall not disseminate the information
 32 without the consent of the ~~individual~~ **person whose information will**
 33 **be disseminated unless required by law or if the information is con-**
 34 ~~tained in an order as defined in subsection (d) of K.S.A. 77-502, and~~
 35 ~~amendments thereto.~~

36 ~~(d)~~ (e) In any hearings conducted under the licensing or regulation
 37 provisions of K.S.A. 65-501 ~~to 65-522, inclusive, et seq.~~ and amendments
 38 thereto, the hearing officer may close the hearing to the public to prevent
 39 public disclosure of matters relating to ~~individuals~~ **persons** restricted by
 40 other laws.

41 Sec. 3. K.S.A. 1999 Supp. 65-506 and 65-525 are hereby repealed.

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

SENATE BILL No. 398

By Senator Salmans

1-7

9 AN ACT enacting the addictions counselor licensure act; amending
10 K.S.A. 1999 Supp. 74-7501 and 74-7507 and repealing the existing
11 sections; also repealing K.S.A. 65-6601 through 65-6606.
12

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

14 New Section 1. Sections 1 through 13, and amendments thereto,
15 shall be known and may be cited as the addictions counselor licensure
16 act.

17 New Sec. 2. As used in the addictions counselor licensure act:

18 (a) "Addiction counseling" means the evaluation, assessment, ~~edu-~~
19 ~~cation~~ and counseling of individuals within the context of alcohol or drug
20 usage or both, including but not limited to the requirements of subsection
21 (c) of K.S.A. 8-1008, and amendments thereto. Addiction counseling in-
22 cludes the diagnosis and treatment of addiction disorders as authorized
23 under the addictions counselor licensure act.

24 (b) "Licensed addictions counselor technician" means a person who
25 is licensed under this act and who engages in the practice of addictions
26 counseling for compensation only under the supervision of a licensed
27 addictions counselor II, a person licensed to practice medicine and sur-
28 gery, or a person licensed by the board and whose licensure allows for
29 the diagnosis and treatment of mental disorders in independent practice,
30 except that the licensed addictions counselor technician is not authorized
31 to engage in services that evaluate, ~~diagnose~~ ~~or plan treatment~~ for persons
32 with addictions disorders.

33 (c) "Licensed addictions counselor I" means a person who is licensed
34 under this act and engages in the practice of addictions counseling for
35 compensation except that the licensed addictions counselor I may eval-
36 uate, diagnose or plan treatment for persons with addictions disorders
37 only under the direction of a licensed addictions counselor II, a person
38 licensed to practice medicine and surgery, or a person licensed by the
39 board and whose licensure allows for the diagnosis and treatment of men-
40 tal disorders in independent practice.

41 (d) "Licensed addictions counselor II" means a person who is li-
42 censed under this act and engages in the independent practice of addic-
43 tions counseling for compensation including the diagnosis and treatment

or

3-2

1 of addictions disorders as specified in the edition of the diagnostic and
2 statistical manual of mental disorders of the American psychiatric asso-
3 ciation designated by the board by rules and regulations.

4 (e) "Board" means the behavioral sciences regulatory board created
5 by K.S.A. 74-7501, and amendments thereto.

6 (f) "Client" means a person who consults or is examined, interviewed,
7 diagnosed or treated by a licensee.

8 (g) "Licensee" means any licensed addictions counselor technician,
9 licensed addictions counselor I or licensed addictions counselor II who
10 receives a confidential communication from a client if such communica-
11 tion was not intended to be disclosed to third persons.

12 (h) "Ancillary personnel" means any employee of a licensee who is
13 not included in the definition of licensee.

14 New Sec. 3. On and after the effective date of this act: (a) ~~No~~ person
15 shall engage in the practice of addictions counseling or represent that
16 such person is a licensed addictions counselor technician or an addictions
17 counselor technician without having first obtained a license as an addic-
18 tions counselor technician under the addictions counselor licensure act.

Except as provided further,

19 (b) ~~A~~ ~~No~~ person shall engage in the practice of addictions counseling
20 or represent that such person is a licensed addictions counselor I or an
21 addictions counselor I without having first obtained a license as an ad-
22 dictions counselor I under the addictions counselor licensure act.

23 (c) ~~A~~ ~~No~~ person shall engage in the practice of addictions counseling
24 or represent that such person is a licensed addictions counselor II or an
25 addictions counselor II without having first obtained a license as an ad-
26 dictions counselor II under the addictions counselor licensure act.

27 (d) A violation of this section is a class B misdemeanor.

Counselors who currently practice through the substance abuse treatment and recovery (SATR) regulations, pursuant to K.S.A. 65-6301 et seq., and amendments thereto, shall be allowed to provide education, monitoring, support, supervision or activities and transportation under the supervision of a licensed addictions counselor I or II.

28 New Sec. 4. (a) The board shall issue a license as an addictions coun-
29 selor technician to an applicant who:

30 (1) Has satisfied the board that the applicant is a person who merits
31 the public trust;

32 (2) has completed 500 hours of supervised professional experience in
33 addictions counseling acceptable to the board; and

34 (3) has completed 18 academic credit hours of coursework in the core
35 work functions of an addictions counselor as determined by the board.

36 (b) The board shall issue a license as an addictions counselor I to an
37 applicant who:

38 (1) Has satisfied the board that the applicant is a person who merits
39 the public trust;

40 (2) has passed an examination approved by the board;

41 (3) is licensed by the board or qualified to be licensed as an addictions
42 counselor technician;

43 (4) has completed ~~2,000~~ ^{1,000} hours of supervised professional experience

(e)

1,000

1 in addictions counseling acceptable to the board; and
 2 (5) on or after July 1, 2003, has (A) a baccalaureate degree from an
 3 accredited college or university approved by the board; (B) as part of or
 4 in addition to a baccalaureate degree, has completed 21 credit hours of
 5 addictions related course work in addition to the 18 credit hours in core
 6 work functions, pursuant to subsection (a), through identifiable study of
 7 the following content areas: Individual and family development, counsel-
 8 ing theories and techniques, physiology of addiction, addiction prevention
 9 and education, and addictions studies and research; and (C) has com-
 10 pleted ~~1,000~~ hours of the supervised professional experience require-
 11 ments specified in paragraph (4) following completion of educational
 12 requirements.

500

13 (c) The board shall issue a license as an addictions counselor II to an
 14 applicant who:

- 15 (1) Has satisfied the board that the applicant is a person who merits
- 16 the public trust;
- 17 (2) has passed an examination approved by the board;
- 18 (3) is licensed by the board or qualified to be licensed as an addictions
- 19 counselor I;

20 (4) has completed ~~4,000~~ hours of supervised professional experience

2,000

21 in addictions counseling acceptable to the board; and
 22 (5) on or after July 1, 2005, has (A) a master's degree from an ac-
 23 credited college or university approved by the board; (B) as part of or in
 24 addition to a master's degree has completed 21 graduate credit hours of
 25 addictions related course work through identifiable study of the following
 26 content areas: Diagnosis and treatment of addiction; individual, family
 27 and group interventions; collaboration and referral; professional ethics;
 28 and any one content area from the requirements of subparagraph
 29 (b)(5)(B); and (C) has completed ~~2,000~~ hours of the supervised profes-
 30 sional experience requirements specified in paragraph (4) following com-
 31 pletion of educational requirements.

1,000

32 (d) On or before June 30, 2003, a person who does not meet the
 33 education and training requirements to be licensed as an addictions coun-
 34 selor I specified in subsection (b)(5) may be licensed as an addictions
 35 counselor I by, upon application to the board, satisfying the remaining
 36 requirements of this act and verifying that the person:

- 37 (1) Was registered or qualified to be registered as an alcohol and
- 38 other drug abuse counselor prior to the effective date of this act; or
- 39 (2) has a minimum of two years of professional experience as an al-
- 40 cohol and drug abuse counselor certified by the department of social and
- 41 rehabilitation services or equivalent professional experience acceptable to
- 42 the board and has passed either a national examination or has been so
- 43 recognized through a prior certification process acceptable to the board.

SB 593
DRAFT Substitute for HB2728

By
C. Wheelen, KAOM
March 2000

page 2, DRAFT by C. Wheelen

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

Section 1. K.S.A. 65-2872 is hereby amended to read as follows: Every act or practice in the field of the healing arts not specifically excepted herein, shall constitute the practice thereof. The practice of the healing arts shall not be construed to include the following persons:

- (a) Persons rendering gratuitous services in the case of an emergency.
- (b) Persons gratuitously administering ordinary household remedies.
- (c) 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.
- (d) Students while in actual classroom attendance in an accredited healing arts school who after completing one (1) year's study treat diseases under the supervision of a licensed instructor.
- (e) Students upon the completion of at least three (3) years study in an accredited healing arts school and who, as a part of their academic requirements for a degree, serve a preceptorship not to exceed ninety (90) days under the supervision of a licensed practitioner.
- (f) Persons who massage for the purpose of relaxation, muscle conditioning, or figure improvement, provided no drugs are used and such persons do not hold themselves out to be physicians or healers.
- (g) Persons whose professional services are performed under the supervision or by order of or referral from a practitioner who is licensed under this act.
- (h) Persons in the general fields of psychology, education and social work, dealing with the social, psychological and moral well-being of individuals and/or groups provided they do not use drugs and do not hold themselves out to be the physicians, surgeons, osteopathic physicians or chiropractors.
- (i) Practitioners of the healing arts in the United States army, navy, air force, public health service, and coast guard or other military service when acting in the line of duty in this state.
- (j) Practitioners of the healing arts licensed in another state when and while incidentally called into this state in consultation with practitioners licensed in this state, or residing on the border of a neighboring state, duly licensed under the laws thereof to practice a branch of the healing arts, but who do not open an office or maintain or appoint a place to regularly meet patients or to receive calls within this state.

Technical only

(k) Dentists practicing their professions, when licensed and practicing in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, or amendments thereto, and any interpretation thereof by the supreme court of this state.

(l) Optometrists practicing their professions, when licensed and practicing under and in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, or amendments thereto, and any interpretation thereof by the supreme court of this state.

(m) Nurses practicing their profession when licensed and practicing under and in accordance with the provisions of article 11 of chapter 65 of the Kansas Statutes Annotated, or amendments thereto, and any interpretation thereof by the supreme court of this state.

(n) Podiatrists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, or amendments thereto, and any interpretation thereof by the supreme court of this state.

~~(o) Every act or practice falling in the field of the healing art, not specifically excepted herein, shall constitute the practice thereof.~~

~~(p) Pharmacists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 16 of chapter 65 of the Kansas Statutes Annotated, or amendments thereto, and any interpretation thereof by the supreme court of this state.~~

~~(q) (p) A dentist licensed in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated who administers general and local anesthetics to facilitate medical procedures conducted by a person licensed to practice medicine and surgery if such dentist is certified by the board of healing arts under K.S.A. 65-2899 to administer such general and local anesthetics.~~

(q) Persons who recommend or furnish natural medicines and remedies which are not prescription-only drugs.

services

Sec. 2. K.S.A. 65-2872 is hereby repealed.

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