

Approved: May 10, 2002
Date

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE.

The meeting was called to order by Chairperson Senator Susan Wagle at 1:30 p.m. on February 21, 2002 in Room 231-N of the Capitol.

All members were present except:

Committee staff present: Ms. Emalene Correll, Kansas Legislative Research Department
Mr. Norm Furse, Revisor of Statutes
Ms. Lisa Montgomery, Revisor of Statutes
Ms. Margaret Cianciarulo, Administrative Assistant

Conferees appearing before the committee: Mr. Larry Buening, Executive Director,
KS Board of Healing Arts

Others attending: See attached guest list.

Status of SB508 - emergency medical services board, financial support, authorizing certain transfers

Chairperson Wagle updated the Committee on the status of **SB508**, stating that after talking to Senator Morris on the Floor, they both decided that with the amendments needing to go into that bill, it would be best done in Appropriations. So she and Senator Morris had the bill moved, she cancelled the hearing and announced that today, she has scheduled some informational hearings on two issues.

She also wanted to remind the Committee that she has had numerous health care occupations wanting certain statuses in Kansas, ex. registration licensure and has told any group that comes to her with bills like that, they have to go through the credentialing process first. She said she has placed before them, the Kansas law on credentialing just as a reminder. A copy of the statute is (Attachment 1) attached hereto and incorporated into the Minutes by reference. She mentioned that the Committee overviewed it last year from KDHE.

Overview of SB610 - naturopathic doctor licensure act

The Chair stated that the naturopaths did go through this process starting right after the session ended last year. They were recommended for licensure and the Committee does have a bill they will be hearing next Monday and Tuesday (February 25 - 26). She then recognized Mr. Norm Furse, Revisor of Statutes, who has been working on the bill, to give an overview of **SB610**, so that next week the Committee can attend to conferees. A copy of Mr. Furse's overview is (Attachment 2) attached hereto and incorporated into the Minutes by reference.

Highlight's of Mr. Furse overview included: the definition of a number of terms used throughout the act which are important to the substance of the bill; administrative provisions set out in Sections 3 through 10; title and practice protection and exclusions; practice authorizations and restrictions under Section 13; Naturopathic acupuncture and the advisory council in Sections 14 and 15; and miscellaneous provisions in Sections 16 through 20.

As range of questions were presented by Senators Praeger, Barnett, and Wagle of Mr. Furse as he stood before the Committee, ranging from carrying liability insurance, statutory requirements, and a technical committee report by Health and Environment, and reference to an Attorney General's opinion related to this Committee.

Scope of Practice Issues Overview

The Chairperson then mentioned that Mr. Larry Buening, Executive Director, Kansas Board of Healing Arts, attended yesterday's Committee hearing pertaining to the physical therapist bill. She mentioned, he has to implement the laws the Committee passes for the Healing Arts Board and even though he is a neutral party he had some thoughts he would like to share with the Committee.

She then recognized Mr. Buening who stated that the Board does not try to get involved in issues such as scope of practice, particularly regarding those professionals whom they regulate. But a couple of issues they are concerned within **SB583**, are as follows. Protecting the doctor directed health care team was a concern. Also, many of the things that were being defined as being physical therapy are also being performed by occupational therapists as well. He referred to examples on page 2 of the bill, particularly "alleviating impairments", "functional training in self-care", "fabrication of", "debridement and wound care". Then regarding page three beginning with line 13, to him, this wording seems to be creating a scope of practice as opposed to changing the category here.

The second issue he stated, was in regards to billing. Most licensing boards do not get involved in billing issues, primarily because these are controlled by entities outside the regulations of the legislature and them. He then went to the CPT code and read where it is used whenever a physician wants to bill for services, and under this, it actually lists physical medicine, therapy, occupational therapy, all being under the same code. No written testimony was offered.

As he stood before the Committee for questions and comments, the Chair stated that for the Committee's information the group that was before them yesterday, will be making changes, striking the language on the billing and make the language on page 2 a "may include" rather than what it is. A healthy discussion of questions followed, asked by Senator Salmans, Barnett, and Wagle ranging from "doctor directed health care team", how does a licensed occupational therapist and athletic trainers' bill for services, does the language change mentioned take care of the issue that was raised chiropractic association, how would this apply to the governing of the naturopaths and how they would fit into your governing structure, and how would it work with **SB610** regarding their Advisory Board, to type of qualification.

All were answered by Mr. Buening with the exception of Senator Barnett's regarding chiropractic association which was answered by Mr. Steve Kearney, Legislative Council for KS Physical Therapists Association and Ms. Rebecca Rice, Legislative Council for KS Chiropractic Association.

Final Action on SB447 - an act concerning the state board of healing arts; relating to compensation of review committee members and expert witnesses

The Chairperson Wagle then mentioned they would be working a couple of bills, the first being **SB447**. She recognized Senator Praeger who did have concerns regarding the appointment of members, especially the wording "for duration of term". She stated that on the Healing Arts Board, the appointment does not cease if that person is no longer living in the state. She stated the amendment would state that "For the duration of their terms; licensed appointees to the board shall be a resident and maintain a primary residence an average of nine months in the state of Kansas and remain actively engaged in the practice of his or her profession. A copy of this amendment is (Attachment 3) attached hereto and incorporated into the Minutes by reference.

A motion was made by Senator Praeger to adopt the amendment to the healing arts act and seconded by Senator Salmans. The motion carried. Senator Praeger motioned to move the bill as amended. Senator Steineger seconded the motion. The motion carried.

Final Action on SB418 - an act concerning adult care home administrators; relating to the board of adult care home administrators; also relating to licensure

Chairperson Wagle then asked Ms. Lisa Montgomery to pass out the amendments to the bill. Ms. Montgomery explained the balloon contained only language changes (striking and inserting) made on page 5 of the bill. A copy of the balloon is (Attachment 4) attached hereto and incorporated into the Minutes by reference.

Senator Steineger made a motion to adopt the bill as amended and it was seconded by Senator Praeger. The motion carried.

Senator Steineger made a motion to move the bill favorably as amended. Senator Brungardt seconded the motion. The motion carried.

Adjournment

Adjournment time was at 2:30 p.m.

The next meeting is scheduled for February 25, 2002.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

c 12

GUEST LIST

29 in att.

DATE: Thursday, February 21

| NAME | REPRESENTING |
|---------------------------------|---|
| EDWARD D. MCKENZIE, DC. | KCA |
| Stephanie D. Gilkey-Stumpff, DC | KCA |
| LARRY BUENINGA | BD OF HEALING ARTS |
| Rebecca Rice | Ks. Chiropractic Assn. |
| Mary Ellen Conlee | Via Christi Regional Med Center |
| Lesia Roberts | KDHE |
| PHILIP HORLEY | PAT HORLEY & Co. / KAFP |
| KEITH R LANDIS | CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS |
| John A. Pedersen | KNPA |
| Mohiti Ghosh | KNPA |
| Michelle Peterson | K. Governmental Consulting |
| Mary Conroy | Sin. Brungardt's Intern |
| Chip Wheelen | Osteopathic Association |
| STUVE KEARNEY | KPTA |
| STAN RANSON | CWA LOCAL 6450 |
| Renda C. Jones | CWA Local 6450 |
| Julie Heen | Heen Law Firm |
| Chris Collins | KMS |
| | |



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65-5006

Chapter 65.--PUBLIC HEALTH Article 50.--CREDENTIALING

65-5006. Same; credentialing criteria. (a) The technical committee appointed pursuant to K.S.A. 65-5003 and amendments thereto and the secretary shall apply the following criteria to each credentialing application:

(1) The unregulated practice of the occupation or profession can harm or endanger the health, safety or welfare of the public and the potential for such harm is recognizable and not remote;

(2) the practice of the occupation or profession requires an identifiable body of knowledge or proficiency in procedures, or both, acquired through a formal period of advanced study or training, and the public needs and will benefit by assurances of initial and continuing occupational or professional ability;

(3) if the practice of the occupation or profession is performed, for the most part, under the direction of other health care personnel or inpatient facilities providing health care services, such arrangement is not adequate to protect the public from persons performing noncredentialed functions and procedures;

(4) the public is not effectively protected from harm by certification of members of the occupation or profession or by means other than credentialing;

(5) the effect of credentialing of the occupation or profession on the cost of health care to the public is minimal;

(6) the effect of credentialing of the occupation or profession on the availability of health care personnel providing services provided by such occupation or profession is minimal;

(7) the scope of practice of the occupation or profession is identifiable;

(8) the effect of credentialing of the occupation or profession on the scope of practice of other health care personnel, whether or not credentialed under state law, is minimal; and

(9) nationally recognized standards of education or training exist for the practice of the occupation or profession and are identifiable.

(b) Reports of the technical committee, and the secretary shall include specific findings on the criteria set forth in subsection (a). No report of the technical committee or the secretary shall recommend credentialing of any occupational or professional group of health care personnel unless all the criteria set forth in subsection (a) have been met.

History: L. 1980, ch. 181, § 6; L. 1986, ch. 246, § 6; L. 1987, ch. 232, § 6; July 1.

*Senate Public Health & Welfare Committee
Date: February 21, 2002
Attachment 1*

MEMORANDUM

TO: Senate Committee on Public Health and Welfare
FROM: Norm Furse, Revisor of Statutes
DATE: February 21, 2002
RE: SB No. 610

Summary of SB No. 610

- I. Generally. SB No. 610 if enacted would provide for the licensure of naturopathic doctors who qualify for licensure under the provisions of the bill. The bill is a practice and title act in that both the practice of naturopathic medicine and the title of licensed naturopathic doctor and other similar terms would be protected under the act to those who are licensed. The regulatory agency under the bill is the state board of healing arts. The administrative procedural provisions of the bill are similar to those provisions in the respiratory therapy practice act which has recently been reviewed by the legislature (2000). The more substantive provisions of the bill are adapted and modified from SB No. 276.
- II. Definitions. Section 2 defines a number of terms used throughout the act which are important to the substance of the bill. Naturopathic medicine is defined in subsection (b), homeopathic preparations is defined in subsection (e), naturopathic acupuncture is defined in subsection (f), minor office procedures is defined in subsection (g) and naturopathic physical applications is defined in subsection (h).
- III. Administrative Provisions. Sections 3 through 11 of the bill set out the administrative provisions of the bill. The state board of healing arts is the administering agency under the act and passes on the qualifications of applicants for examination and licensure, provides for all examinations, determines applicants who successfully pass the examination, duly licenses the applicants and adopt rules and regulations as necessary to administer the act. (Sec. 3.) Subsection (c) of section 3 provides for licensure as a naturopathic doctor certain individuals who graduated from a school of naturopathy prior to the effective date of the act and have passed a naturopathic physicians' licensure examination. Application for licensure, education requirements, examination requirements, fees and the authorization to establish criteria for an educational program are set out in section 4. Section 5 requires applicants for licensure to be examined by written examination or examinations chosen by the board and section 6 provides for waiver of an examination for applicants authorized to practice naturopathy in another jurisdiction which has standards for authorization to practice equivalent to requirements for licensure under the proposed act. In addition, any applicant who presents proof that on the date preceding the effective date of the act the applicant was practicing under K.S.A. 65-2872a would be licensed under the act without the examination. Section 6 also authorizes the board to issue a special

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Attachment 2*

permit to a student enrolled in an approved school of naturopathy under certain conditions and the board may issue a temporary license to an applicant for licensure under the act who meets all the requirements for licensure except examination. The maximum fees the board is authorized to charge and collect are established under section 7 in amounts similar to those for licensees under the healing arts act. Examination fees may be paid directly to the examination service. Under section 8, the board may deny, refuse to renew, suspend or revoke a license where the licensee or applicant for licensure has been found to be guilty of unprofessional conduct which is defined in the section. Administrative procedures would be conducted in accordance with the provisions of the Kansas administrative procedure act. Under section 9, foreign trained naturopaths are required to provide proof of completion of educational requirements substantially equal to those required under the act prior to being authorized to take the examination. Under section 10, licenses would be effective for one year and expire at the end of that period of time unless renewed as provided under the act. Completion of at least 25 hours of continuing education annually would be required for licensure renewal. Under section 11, moneys collected by the board under the act would be credited to the state general fund and the healing arts fee fund.

- IV. Title and Practice Protection and Exclusions. The practice of naturopathy and the use of enumerated titles relating to the term licensed naturopathic doctor are protected to those who are licensed under the act by subsection (a) of section 12. Section 12 also sets out individuals who are not effected by the provisions of the act. Among those individuals are persons rendering assistance in the case of an emergency, members of a church practicing their religious tenets, persons performing services pursuant to delegation and under the supervision of a licensed naturopathic doctor, health care providers in the United States armed forces, public health services, federal facilities and coast guard and other military service when acting in the line of duty in this state, licensees under the healing arts act, persons performing services pursuant to the delegation of a licensed physician under the healing arts act, dentists, nurses, health care providers practicing in accordance with their training, students of naturopathy, self-care by a patient or gratuitous care by a friend or family member, the incidental practice by a doctor of naturopathic medicine in this state.
- V. Practice Authorizations and Restrictions. Under section 13, a naturopathic doctor is prohibited from prescribing, dispensing or administering prescription or controlled drugs except as specified in that section to include whole gland thyroid, homeopathic preparations, natural therapeutic substances, drugs, and other therapies described in the act; administering ionizing radioactive substances for therapeutic purposes; performing surgical procedures; claiming to practice any licensed health care profession or system other than naturopathic medicine; practicing obstetrics; practicing emergency medicine except as a good samaritan rendering gratuitous

services; or practicing or claiming to practice any other system or method of treatment not authorized under the act. Subsection (b) would allow naturopathic doctors to prescribe and administer natural therapeutic substances and therapies as follows: Food, food extracts, vitamins, minerals, enzymes, whole gland thyroid, botanical medicines, homeopathic preparations, natural hormones and legend substances approved by the board; topical drugs, health care counseling, nutritional counseling and dietary therapy, naturopathic physical applications, therapeutic devices and nonprescription drugs; intramuscularly or intravenously any vitamins, minerals, botanicals, amino acids, D5W, saline solutions, isotonic solutions and glandulars; immunizations; or noncontrolled legend drugs to the extent authorized by the board. Subsection (c) of section 13 would allow naturopathic doctors to perform or order for diagnostic purposes various examinations enumerated in the subsection, and also allow naturopathic doctors to perform minor office procedures.

- VI. Naturopathic Acupuncture. Section 14 authorizes the board to issue a specialty certification to naturopathic doctors to practice naturopathic acupuncture if the individual applying for certification has completed basic oriental medicine philosophy in an approved college and has 500 hours of supervised clinical training under a trained naturopathic acupuncturist's supervision.
- VII. Naturopathic Advisory Council. Section 15 creates a naturopathic advisory council of five persons to assist the board in the administration of the act. Three members would be naturopathic doctors appointed by the state board of healing arts, one member would be the president of the state board of healing arts or a person designated by the president and one member would be from the public sector who is appointed by the governor.
- VIII. Miscellaneous Provisions. Section 16 would authorize the board to bring an action in injunction against a person who is violating any of the provisions of this act, section 17 provides that the Kansas administrative procedures act and the act for judicial review and civil enforcement of agency actions applies to proceedings under the act and section 18 amends a section in the healing arts act to exclude naturopathic doctors from the provisions of the healing arts act. Section 19 is the repealer section and section 20 would provide for the act to become effective on January 1, 2003.

Chapter 65.--PUBLIC HEALTH
Article 28.--HEALING ARTS

65-2813. State board of healing arts; qualifications of members.

Five members of the board shall hold a degree of doctor of medicine from an accredited medical school and shall be residents of and have been actively engaged in the practice of medicine and surgery in the state of Kansas under license issued in this state, for a period of at least six consecutive years immediately preceding their appointment; three members shall hold a degree of doctor of osteopathy from an accredited school of osteopathic medicine and surgery and shall be residents of and have been actively engaged in the practice of osteopathic medicine and surgery in the state of Kansas under license issued in this state, for a period of at least six consecutive years immediately preceding their appointment; three members shall hold a degree of doctor of chiropractic from an accredited school of chiropractic and shall be residents of and have been actively engaged in the practice of chiropractic in the state of Kansas under license issued in this state, for a period of at least six consecutive years immediately preceding their appointment; one member shall be a licensed podiatrist and shall be a resident of and have been actively engaged in the practice of podiatry in the state of Kansas under license issued in this state for a period of at least six consecutive years immediately preceding appointment; For the duration of their terms, licensed appointees to the board shall be a resident of the state of Kansas, maintain a primary residence in the state of Kansas and remain actively engaged in the practice of his or her profession and maintain a primary residence in the state of Kansas an average of nine months annually. ~~and~~ Three members shall be appointed to represent the general public of this state. Subject to the provisions of K.S.A.

*Senate Public Health & Welfare Committee
Vote: February 21, 2002
Attachment 3*

1992 Supp. 75-4315c, no two of the members representing the general public shall be from the same United States congressional district. No member representing the general public shall be the spouse of a licensee of the healing arts or a person or the spouse of a person who has a financial interest in any person's practice of the healing arts.

SENATE BILL No. 418

By Committee on Public Health and Welfare

1-23

9 AN ACT concerning adult care home administrators; relating to the
10 board of adult care home administrators; also relating to licensure;
11 amending K.S.A. 65-3508 and K.S.A. 2001 Supp. 65-3503, 65-3504
12 and 65-3506 and repealing the existing sections.
13

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

15 Section 1. K.S.A. 2001 Supp. 65-3503 is hereby amended to read as
16 follows: 65-3503. (a) It shall be the duty of the board to:

17 (1) Develop, impose and enforce standards which shall be met by
18 individuals in order to receive a license as an adult care home adminis-
19 trator, which standards shall be designed to ensure that adult care home
20 administrators will be individuals who are of good character and are oth-
21 erwise suitable, and who, by training or experience in the field of insti-
22 tutional administration, are qualified to serve as adult care home
23 administrators;

24 (2) develop examinations and investigations for determining whether
25 an individual meets such standards;

26 (3) issue licenses to individuals who meet such standards, and revoke
27 or suspend licenses issued by the board or reprimand, censure or oth-
28 erwise discipline a person holding any such license as provided under
29 K.S.A. 65-3508, and amendments thereto;

30 (4) establish and carry out procedures designed to ensure that indi-
31 viduals licensed as adult care home administrators comply with the
32 requirements of such standards; and

33 (5) receive, investigate and take appropriate action under K.S.A. 65-
34 3505, and amendments thereto, and rules and regulations adopted by the
35 board with respect to any charge or complaint filed with the board to the
36 effect that any person licensed as an adult care home administrator may
37 be subject to disciplinary action under K.S.A. 65-3505 and 65-3508, and
38 amendments thereto.

39 (b) The board shall also have the power to make rules and regulations,
40 not inconsistent with law, as may be necessary for the proper performance
41 of its duties, and to have subpoenas issued pursuant to K.S.A. 60-245,
42 and amendments thereto, in the board's exercise of its power and to take
43 such other actions as may be necessary to enable the state to meet the

Senate Public Health & Welfare Committee
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Attachment 4

Material in brackets will be stricken

1 (k) had disciplinary action taken against such adult care home ad-
2 ministrators ~~on a professional or occupational health care license, mental~~
3 ~~health care license or social worker license issued by this state or by~~
4 ~~another state or jurisdiction~~

an agency of

5 Sec. 5. K.S.A. 65-3508 and K.S.A. 2001 Supp. 65-3503, 65-3504 and
6 65-3506 are hereby repealed.

that regulates nursing; physical, occupational
or respiratory therapy; dietitians; social
work; or physician assistants

7 Sec. 6. This act shall take effect and be in force from and after its
8 publication in the statute book.

4-2