

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 March 5, 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
Mr. Chip Wheelen, executive Director,
KS Association of Osteopathic Medicine
Ms. Chris Collins, Director of Government Affairs,
Kansas Medical Society

Others attending: See attached guest list.

Hearing on SB584 - an act concerning institutional licenses; relating to the granting of a license

Chairperson Wagle began the meeting by asking Ms. Emalene Correll, Kansas Legislative Research Department, who stated this would not be a new subject to most. Highlights of her overview included the provisions the state board of healing arts may grant license to practice medicine and surgery, the examination required, a foreign medical graduate, the institutional license being valid for only 2 years after being issued, and would create not an exception but for one person but for any holder of an institutional license who can meet either A, B, C and D.

As she stood before the Committee, a clarification was asked from Senator Brungardt regarding the "and" "or" language. Ms. Correll said it was "having to meet either "A, B, C, or D.

The Chair then recognized Senator Salmans as the only proponent on this bill. He gave a short history of how this bill affected the Topeka State Hospital and the Osawattamie and Larned State Hospitals and how their closings affected the Cuban psychiatrists who applied to these different institutions back during the Cuban crises. He stated they followed their profession and as years passed, some are not now in the mental health field and so this bill is just a sequence to go along with these people. But, he stated, his concern is the basic science part of the exam and how this part has a tremendous amount of changes taken place in the field of science and felt that 5 years of experience as an institutional doctor should count sufficiently and be substituted for this particular portion of the exam. He would like to make a substitute amendment to sunset the entire bill after 2007 and has visited with Mr. Buening about who would be to immediately able to apply (2 in 2004 and 3 in 2006). No written testimony was presented but a copy of his balloon is (Attachment 1) attached hereto and incorporated into the Minutes by reference.

Chairperson Wagle then recognized the first opponent, Mr. Larry Buening, executive Director, Kansas Board of Healing Arts who stated the bill would allow the Board to grant a full and unrestricted license to practice medicine and surgery to individuals who are not otherwise qualified under current statutes and rules and regulations. He provided a copy of statute K.S.A.65-2873 specifying requirements that must be met, requires that an applicant present evidence of proficiency in the basic sciences, and pass an exam, the same steps of the United States Medical Licensing Examination and a copy of K.S.A.2001 Supp. 65-2895 stating the provisions a person may be issued an institutional license. A copy of his testimony and handout are (Attachment 2) attached hereto and incorporated into the Minutes by reference.

The next opponent was Mr. Chip Wheelen, Director of Government Affairs for the Kansas Medical Society who provided a copy of K.S.A. 65-2895 which creates a special license for persons employed to work in state hospitals, prisons, or community mental health centers since physicians salaries offered by the State were not competitive with the private sector, this special, lower licensing standard was created. A copy of his testimony and K.S.A. 65-2895 are (Attachment 3) attached hereto and incorporated into the Minutes by reference.

The last opponent to testify was Ms. Chris Collins, Director of Government Affairs for the Kansas Medical Society who stated the bill significantly expands the concept of prior protective legislation with some potentially dangerous consequences for the public. She stated the bill would permit health care professions whom have not demonstrated minimum competency through an exam process to have full and unrestricted licensing to practice medicine in Kansas and physicians granted licensure could seek full licensure from other states by endorsement, without having to satisfy other states' exam requirements. A copy of her testimony is (Attachment 4) attached hereto and incorporated into the Minutes by reference.

As there was no written testimony, the Chair asked for questions or comments from the Committee. Questions were asked from Senators Haley, Wagle, Praeger, Salmans. and Brungardt ranging from do you oppose the bill and Senator Salmans amendment, what can we do to allow out of state physicians to relocate for smaller areas, the 14 people holding institutional licenses in this country, taking residencies in the U.S., renewals, to operating on a provision that mandates the Board.

Chairperson Wagle asked that Senator Salmans provide copies of the balloon to all and then she would take a poll of where the members of the Committee stands. Senator Salmans said he would provide copies to all after the Senate session.

Adjournment

Adjournment time was at 2:30 p.m.

The next meeting is scheduled for March 6, 2002.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

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att.

GUEST LIST

DATE: Tuesday ^{March} ~~Feb~~ 5, 02

NAME	REPRESENTING
Dave Feltman	Hess Law
Chip Wheelon	Osteopathic Association
Chris Collins	KMS
Rebecca Guerny	Fellner Consulting
Eric Collins	K&P Consulting
LARRY BUENING	Bd OF HEALING ARTS.

material in brackets will be stricken

SENATE BILL No. 584

By Committee on Public Health and Welfare

2-13

9 AN ACT concerning institutional licenses; relating to the granting of a
10 license.

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

Section 1. [Notwithstanding the provisions of K.S.A. 65-2873, and amendments thereto, or any other provision of the healing arts act, the state board of healing arts may grant a license to practice medicine and surgery to any person who:

(a)

[(a)] Has graduated from an accredited school of medicine or a school of medicine which has been in operation for not less than 15 years and the graduates of which have been licensed in another state or states which has standards similar to Kansas; or

(1)

[(b)] has passed an examination given by the educational commission on foreign medical graduates, if a graduate of a medical school located outside of the United States; or

(2)

[(c)] has completed at least three years of postgraduate training, with at least two of those years having been in a postgraduate training program in the United States approved by the board; and

(3)

[(d)] has held a valid institutional license issued under K.S.A. 65-2895, and amendments thereto, for a period of at least five years.

(4)

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

(b)
July

The provisions of this act shall expire on
1, 200~~5~~.
2007.

Senate Public Health & Welfare Committee
Date: March 5, 2002
Attachment 1

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

DATE: March 5, 2002

RE: SENATE BILL NO. 584

Chairperson Wagle and members of the Committee, thank you for the opportunity to appear before you and express the opposition of the State Board of Healing Arts to Senate Bill No. 584.

Senate Bill No. 584 would allow the Board to grant a full and unrestricted license to practice medicine and surgery to individuals who are not otherwise qualified under current statutes and rules and regulations. K.S.A. 65-2873 is the statute which specifies the requirements that must be met for individuals applying for a license to practice medicine and surgery. A copy of K.S.A. 65-2873 is attached. This statute requires that an applicant present evidence of proficiency in the basic sciences and also pass an examination covering the subjects incident to the practice of medicine and surgery. By rule and regulation, the examinations required by the Board under this statute are Steps 1, 2, and 3 of the United States Medical Licensing Examination (USMLE). See copy of K.A.R. 100-7-1 attached.

According to Board records, 14 individuals currently hold an institutional license. If Senate Bill No. 584 becomes law on July 1, 2002, it appears that nine of these individuals would be eligible to receive a full and unrestricted license to practice medicine and surgery in the state of Kansas without having passed the examinations required of all other applicants.

The concept of a different license category first developed in 1969 by the Legislature's creation of a fellowship license for persons who held a degree of doctor of medicine and who were employed by the division of institutional management of the state board of social welfare or employed by any institution within the state department of penal institutions. Practice privileges under a fellowship license were restricted to the period of employment and only within the hospital to which the person was assigned.

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR

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*Senate Public Health & Welfare Committee
Date: March 5, 2002
Attachment 2*

In 1976, the requirements were added that the person had to be a graduate of an accredited medical school and had to successfully complete an examination given by the educational commission on foreign medical graduates (ECFMG). Also, the fellowship license was restricted to not more than two years and was not renewable. In 1985, the fellowship license was changed to an institutional license. The requirement was also imposed that applicants had to pass an examination in the basic and clinical sciences approved by the Board. An institutional license could be renewed if the applicant had passed the examination required under K.S.A. 65-2873(a)(3). In 1988, the Legislature deleted the requirement that applicants had to pass an examination given by ECFMG.

In 1997, the Legislature expanded the practice of institutional license holders to include mental health services provided in a community mental health center, a duly chartered educational institution, a hospital or a psychiatric hospital. In 2000, the practice of institutional license holders was further expanded to include providing mental health services pursuant to a written protocol with a person who had a full license to practice medicine and surgery. At that same time, the requirement of passage of the examination required by K.S.A. 65-2873(a)(3) as a condition of renewal was deleted if the individual had completed two years of postgraduate training in the United States. By a proviso to the Board's appropriation bill, the 2001 Legislature directed the Board to renew all institutional licenses which expire during FY2002 and FY2003 for an additional two years.

There has been a continual evolution of medical licensing examinations the past three decades. For many years, there were no standardized examinations with the exception of the those given by the National Board of Medical Examiners (NBME). However, the NBME examinations were not available except to those who graduated from accredited American schools. Starting in December 1972, the Board began requiring passage of what was the first standardized examination, a three-day FLEX examination for those persons who were ineligible for NBME. In June 1985, that test evolved into a two component FLEX examination. That examination was last administered in December 1993 following the development of the USMLE. The USMLE combined the FLEX and NBME examinations into one unified examination for medical licensure in the United States required by all jurisdictions. The USMLE is available and required for graduates of both American and foreign medical schools. Since July 1, 2002, the Board has required that all applicants for licensure by examination successfully complete all three steps of the USMLE.

Under the current language of K.S.A. 2001 Supp. 65-2895, a person may be issued an institutional license by showing that they are a graduate of an accredited medical school or one that has been in operation for not less than 15 years and which has graduates licensed in another state. No requirement of postgraduate training or passage or any licensing examination is required as a qualification for receiving an institutional license.

Licensing physicians in Kansas and throughout the United States has, for many years, been a combination of three elements—education, examination and clinical training. The State Board of Healing Arts is concerned that passage of Senate Bill No. 584 will allow to select group of people to bypass one of these elements. Attached is a copy of a letter from the Interim Chief Executive Officer of the Federation of State Medical Boards of the United States, Inc. expressing these same concerns. Therefore, the Board is opposed to passage of this bill.



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OF THE UNITED STATES, INC.

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MEMBER SUPPORT SERVICES

February 27, 2002

Senator Susan Wagle, Chair
Senate Public Health and Welfare Committee
State Capitol, Room 128-S
Topeka, Kansas 66612-1504

Dear Senator Wagle:

I am writing this letter on behalf of the Federation of State Medical Boards to express our concerns about SB 584, an act concerning institutional licenses. This bill has been referred to your committee and would allow the Kansas Board of Healing Arts to grant a full and unrestricted license to practice medicine to certain physicians who have not passed a medical licensing examination as required of other applicants for full and unrestricted license under the Kansas Healing Arts Act, Chapter 65, Article 28.

The Federation of State Medical Boards is a non-profit organization comprised of 70 medical licensing and disciplinary boards of the United States and its territories. As such, the Federation is positioned as a leader in medical licensure and discipline and an authoritative source of research, policy development, education, and information. The Federation's primary mission is to improve the quality, safety, and integrity of health care by supporting and assisting state medical boards in the protection of the public. The Federation strives to assist its member boards in achieving and maintaining the highest possible standards for the process of physician licensure.

The Federation monitors legislation in all medical licensing jurisdictions in the U.S. to ensure that proposed legislation does not negatively impact the state medical boards ability to protect the public from unqualified or incompetent physicians. Licensure requirements, through consistently applied education, training and examination requirements, assure a physician's qualifications to practice medicine with reasonable skill and safety.

Virtually every medical licensing jurisdiction in the U.S. requires physicians seeking initial licensure to successfully complete an approved licensing examination. The United States Medical Licensing Exam (USMLE) has served as the standard national examination to assess a physician's qualification to practice medicine since 1993. The USMLE is comprised of three complementary Steps that are designed to work together to evaluate an examinee's current competency to practice medicine.

Granting a full and unrestricted license to practice medicine to persons who have not demonstrated competency through an examination creates a dangerous precedent and

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compromises public protection. Additionally, such physicians could seek an endorsement license in other states based on their Kansas license possibly avoiding examination requirements in those states. In addition, allowing a chosen few individuals to circumvent licensure requirements could be construed as discriminatory by those physicians who are required to comply with requirements for full and unrestricted license or by patients cared for by physicians licensed under this exception.

Many states issue restricted licenses, similar to the Kansas institutional license, to physicians who have not met all licensing requirements and allow such physicians to practice under specific restrictions for a limited period of time. Such restricted licenses do not, however, allow licensees to conduct a full and unrestricted practice outside the license limitations. The Federation believes that such restricted licenses should not be a vehicle to bypass examination requirements because licensing exams are a critical factor in ensuring that only qualified physicians, who have demonstrated fitness to practice, are delivering medical care within any particular state. Licensing and examination requirements are crucial to the state medical board's responsibility to ensure the quality of patient care and to protect the public.

Thank you for the opportunity to express the Federation's concerns about S.B. 584. If you have any questions, please call me or Jeanne Hoferer, at 817-868-4056, jhoferer@fsmb.org.

Sincerely,



Dale L. Austin
Interim Chief Executive Officer

cc: Senate Public Health and Welfare Committee
Larry Buening, Kansas Board of Healing Arts

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K.S.A. 65-2873. License to practice healing arts by examination;

prerequisites; postgraduate study; use of title and degree. (a) Each applicant for a license by examination to practice any branch of the healing arts in this state shall:

(1) Present to the board evidence of proficiency in the basic sciences issued by the national board of medical examiners, the board of examiners of osteopathic physicians and surgeons or the national board of chiropractic examiners or such other examining body as may be approved by the board or in lieu thereof pass such examination as the board may require in the basic science subjects;

(2) present proof that the applicant is a graduate of an accredited healing arts school or college; and

(3) pass an examination prescribed and conducted by the board covering the subjects incident to the practice of the branch of healing art for which the applicant applies.

(b) Any person seeking a license to practice medicine and surgery shall present proof that such person has completed acceptable postgraduate study as may be required by the board by regulations.

(c) The board may authorize an applicant who does not meet the requirements of paragraph (2) of subsection (a) to take the examination for licensure if the applicant:

(1) Has completed three years of postgraduate training as approved by the board;

(2) is a graduate of a school which has been in operation for not less than 15 years and the graduates of which have been licensed in another state or states which has standards similar to Kansas; and

(3) meets all other requirements for taking the examination for licensure of the Kansas healing arts act.

(d) In addition to the examination required under paragraph (3) of subsection (a), if the applicant is a foreign medical graduate the applicant shall pass an examination given by the educational commission for foreign medical graduates.

(e) No person licensed to practice and actively engaged in the practice of the healing arts shall attach to such person's name any title, or any word or abbreviation indicating that such person is a doctor of any branch of the healing arts other than the branch of the healing arts in which such person holds a license but shall attach to such person's name the degree or degrees to which such person is entitled by reason of such person's diploma.

History: L. 1957, ch. 343, § 73; L. 1969, ch. 299, § 16; L. 1976, ch. 273, § 34; L. 1985, ch. 216, § 2; July 1.

Article 7.—EXAMINATIONS

100-7-1. Designated examinations for medicine and surgery and osteopathic medicine and surgery; passing grade. (a) Applications before July 1, 2000.

(1) Each applicant for licensure by examination in medicine and surgery who applies before July 1, 2000 shall, as a requirement for licensure, successfully complete one acceptable combination of sections of examinations identified below in table 1.

TABLE 1—Medicine and Surgery Examination Sequence

A. Examination titles		
National board of medical examiners (NBME): part I, part II, part III.		
Federation licensing exam (FLEX): component 1, component 2.		
United States medical licensing exam (USMLE): step 1, step 2, step 3.		
B. Acceptable combinations		
NBME part I	FLEX component 1	USMLE step 1
+	+	+
NBME part II	FLEX component 2	USMLE step 2
+		+
NBME part III		USMLE step 3
NBME part I or USMLE step 1	FLEX component 1	NBME part I or USMLE step 1
+	+	+
NBME part II or USMLE step 2	USMLE step 3	NBME part II or USMLE step 2
+		+
NBME part III or USMLE step 3		FLEX component 2

(2) Each applicant for licensure by examination in osteopathic medicine and surgery who applies before July 1, 2000 shall, as a requirement for licensure, successfully complete one acceptable combination of sections of examinations identified above in table 1, except that as an alternative to completing part I, part II, or part III of the NBME examination, the applicant may complete part I, part II, or part III, respectively, of the national board of osteopathic medical examiners (NBOME) examination, or level 1, level 2, or level 3, respectively, of the comprehensive osteopathic medical licensing examination (COMLEX), administered by the national board of osteopathic medical examiners.

(b) Applications on or after July 1, 2000.

(1) Each applicant for licensure by examination in medicine and surgery who applies on or after July 1, 2000 shall successfully complete step 1, step 2, and step 3 of the USMLE. To satisfy the requirements for licensure, the applicant shall complete all remaining portions of the USMLE within 10 years after passing step 1 of the examination.

(2) Each applicant for licensure by examination in osteopathic medicine and surgery who applies on or after July 1, 2000 either shall successfully complete step 1, step 2, and step 3 of the USMLE or shall successfully complete level 1, level 2, and level 3 of the COMLEX examination. To satisfy the requirements for licensure, the applicant shall complete all remaining steps of the USMLE examination or levels of the COMLEX examination within 10 years after passing step 1 or level 1 of the examination.

(c) Each applicant for licensure by endorse-

ment shall show proof of successful completion of an examination that met the Kansas requirements for licensure by examination at the time the applicant completed the examination.

(d) To qualify for licensure, each applicant shall obtain a two-digit reported score of at least 75 on each step, part, component, or level of the examination.

(e)(1) Each applicant for licensure by examination who requests to sit for step 3 of the USMLE or level 3 of the COMLEX as a candidate sponsored by the board shall submit an application for licensure that satisfactorily shows that the applicant has met all qualifications for licensure except for completion of the examination.

(2) Any applicant who is sponsored by the board to sit for step 3 of the USMLE or level 3 of the COMLEX and who fails to successfully complete that step or level of the examination on three or more occasions shall not be eligible to sit for that step or level of the examination without completing additional educational requirements ordered by the board. (Authorized by K.S.A. 1999 Supp. 65-2828 and K.S.A. 65-2865; implementing K.S.A. 1999 Supp. 65-2828, K.S.A. 65-2833, and K.S.A. 65-2873; effective Jan. 1, 1966; amended Feb. 15, 1977; amended July 7, 2000.)



Testimony on Senate Bill 584
Senate Public Health and Welfare Committee
By Charles L. Wheelen
March 5, 2002

Thank you for this opportunity to express our opposition to SB584. If enacted, this legislation would reduce the standards established for a license to practice the healing arts in this State.

Attached to this statement is a copy of K.S.A. 65-2873 which outlines the requirements to obtain a license to practice the healing arts. There are only three basic standards: (1) proof of graduation from an accredited school or college, (2) evidence of proficiency in the basic sciences, and (3) passage of an examination relevant to the type of license applied for. If the applicant wants to practice medicine and surgery, there is a fourth standard. The applicant must also present proof that he or she has had a minimum amount of clinical training after graduation from medical school.

Also attached is a copy of K.S.A. 65-2895 which creates a special license for persons employed to work in state hospitals, prisons, or community mental health centers. This law was originally enacted to assist the Departments of SRS and Corrections and was more recently amended to include community mental health centers. Because physician salaries offered by the State were not competitive with the private sector, this special, lower licensing standard was created. It requires only that the applicant be a graduate of a healing arts school. It does not require that the applicant present evidence of proficiency in the basic sciences, nor does it require that the applicant pass a test examining his or her knowledge of the relevant subject matter.

In other words, the State of Kansas reduced the licensing standards for physicians who provide medical care to inmates in our prisons and to mentally ill patients in state hospitals or community mental health centers. Senate Bill 584 would allow these institutional licensees to convert to an unrestricted active license after serving five years in the state system, and would thereby reduce the licensing standards for physicians who provide medical care to the general public.

The institutional license was created for the sake of financial expediency and budget constraints. Senate Bill 584 would defeat the purpose of the institutional license by allowing those physicians to leave the state system and go into private practice anywhere in our State without ever meeting the normal licensing requirements. Furthermore, there is nothing in current law that prevents a person with an institutional license from taking the necessary examinations to demonstrate knowledge of principles of medical practice as well as the basic sciences.

Because SB584 would bypass the minimum requirements for a license to practice the healing arts in our State, it would be unfair to those who have endeavored to obtain the knowledge and meet the licensing requirements set out in state law. For the above reasons, we urge you to *recommend that SB584 not be passed.*

Thank you for considering our comments.

Senate Public Health & Welfare Committee
Date: March 5, 2002
Attachment 3

65-2873. License to practice healing arts by examination; prerequisites; postgraduate study; use of title and degree. (a) Each applicant for a license by examination to practice any branch of the healing arts in this state shall:

(1) Present to the board evidence of proficiency in the basic sciences issued by the national board of medical examiners, the board of examiners of osteopathic physicians and surgeons or the national board of chiropractic examiners or such other examining body as may be approved by the board or in lieu thereof pass such examination as the board may require in the basic science subjects;

(2) present proof that the applicant is a graduate of an accredited healing arts school or college; and

(3) pass an examination prescribed and conducted by the board covering the subjects incident to the practice of the branch of healing art for which the applicant applies.

(b) Any person seeking a license to practice medicine and surgery shall present proof that such person has completed acceptable postgraduate study as may be required by the board by regulations.

(c) The board may authorize an applicant who does not meet the requirements of paragraph (2) of subsection (a) to take the examination for licensure if the applicant:

(1) Has completed three years of postgraduate training as approved by the board;

(2) is a graduate of a school which has been in operation for not less than 15 years and the graduates of which have been licensed in another state or states which has standards similar to Kansas; and

(3) meets all other requirements for taking the examination for licensure of the Kansas healing arts act.

(d) In addition to the examination required under paragraph (3) of subsection (a), if the applicant is a foreign medical graduate the applicant shall pass an examination given by the educational commission for foreign medical graduates.

(e) No person licensed to practice and actively engaged in the practice of the healing arts shall attach to such person's name any title, or any word or abbreviation indicating that such person is a doctor of any branch of the healing arts other than the branch of the healing arts in which such person holds a license but shall attach to such person's name the degree or degrees to which such person is entitled by reason of such person's diploma.

History: L. 1957, ch. 343, § 73; L. 1969, ch. 299, § 16; L. 1976, ch. 273, § 34; L. 1985, ch. 216, § 2; July 1.

65-2895. Institutional license; qualifications; rights and restrictions; term of license. (a) There is hereby created a designation of institutional license which may be issued by the board to a person who is a graduate of an accredited school of the healing arts or a school which has been in operation for not less than 15 years and the graduates of which have been licensed in another state or states which have standards similar to Kansas and who is employed as provided in this section. Subject to the restrictions of this section, the institutional license shall confer upon the holder the right and privilege to practice that branch of the healing arts in which the holder of the institutional license is proficient and shall obligate the holder to comply with all requirements of such license. The practice privileges of institutional license holders are restricted as follows: The institutional license shall be valid only during the period in which: (1) The holder is employed by the department of social and rehabilitation services, employed by any institution within the department of corrections or employed pursuant to a contract entered into by the department of social and rehabilitation services or the department of corrections with a third party, and only within the institution to which the holder is assigned; (2) the holder was issued an institutional license prior to May 8, 1997, and is employed to provide mental health services in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or municipal agency, or other political subdivision, or a contractor of a federal, state, county or municipal agency, or other political subdivision, or a duly chartered educational institution, or a medical care facility licensed under K.S.A. 65-425 *et seq.*, and amendments thereto, in a psychiatric hospital licensed under K.S.A. 75-3307b and amendments thereto, or a contractor of such educational institution, medical care facility or psychiatric hospital, and whose practice, in any such employment, is limited to providing mental health services, is a part of the duties of such licensee's paid position and is performed solely on behalf of the employer; or (3) the holder was issued an institutional license prior to May 8, 1997, and is providing mental health services pursuant to a written protocol with a person who holds a license to practice medicine and surgery other than an institutional license.

(b) An institutional license shall be valid for a period of two years after the date of issuance and may be renewed if the applicant for renewal is eligible to obtain an institutional license under this section, has successfully completed the examination required under subsection (a)(3) of K.S.A. 65-2873 and amendments thereto and has submitted evidence of satisfactory completion of a program of continuing education required by the board. The board shall require each applicant for renewal of an institutional license under this section to submit evidence of satisfactory completion of a program of continuing education required by the board of licensees of the branch of the healing arts in which the applicant is proficient.

(c) Notwithstanding the provisions of subsection (b), an institutional license may be renewed once for two years if the holder was issued an institutional license prior to May 8, 1997, has successfully completed two years of postgraduate training in the United States and has submitted evidence of satisfactory completion of a program of continuing education required by the board.

(d) This section shall be a part of and supplemental to the Kansas healing arts act.

History: L. 1969, ch. 299, § 20; L. 1976, ch. 273, § 38; L. 1985, ch. 216, § 4; L. 1987, ch. 239, § 5; L. 1987, ch. 240, § 11; L. 1988, ch. 254, § 1; L. 1989, ch. 196, § 3; L. 1997, ch. 142, § 10; L. 2000, ch. 141, § 4; July 1.

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65-2895

Chapter 65.--PUBLIC HEALTH

Article 28.--HEALING ARTS

65-2895. Institutional license; qualifications; rights and restrictions; term of license. (a)

There is hereby created a designation of institutional license which may be issued by the board to a person who is a graduate of an accredited school of the healing arts or a school which has been in operation for not less than 15 years and the graduates of which have been licensed in another state or states which have standards similar to Kansas and who is employed as provided in this section. Subject to the restrictions of this section, the institutional license shall confer upon the holder the right and privilege to practice that branch of the healing arts in which the holder of the institutional license is proficient and shall obligate the holder to comply with all requirements of such license. The practice privileges of institutional license holders are restricted as follows: The institutional license shall be valid only during the period in which: (1) The holder is employed by the department of social and rehabilitation services, employed by any institution within the department of corrections or employed pursuant to a contract entered into by the department of social and rehabilitation services or the department of corrections with a third party, and only within the institution to which the holder is assigned; (2) the holder was issued an institutional license prior to May 8, 1997, and is employed to provide mental health services in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or municipal agency, or other political subdivision, or a contractor of a federal, state, county or municipal agency, or other political subdivision, or a duly chartered educational institution, or a medical care facility licensed under K.S.A. 65-425 *et seq.*, and amendments thereto, in a psychiatric hospital licensed under K.S.A. 75-3307b and amendments thereto, or a contractor of such educational institution, medical care facility or psychiatric hospital, and whose practice, in any such employment, is limited to providing mental health services, is a part of the duties of such licensee's paid position and is performed solely on behalf of the employer; or (3) the holder was issued an institutional license prior to May 8, 1997, and is providing mental health services pursuant to a written protocol with a person who holds a license to practice medicine and surgery other than an institutional license.

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TO: Senate Public Health and Welfare Committee

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

DATE: March 5, 2002

RE: SB 584: Institutional Licensure

Ladies and Gentlemen of the Committee:

Thank you for the opportunity to testify today in opposition to SB 584. KMS has not opposed prior similar legislative measures to protect those few practitioners unable to meet Kansas licensure requirements who are employed by a handful of state facilities. KMS' position has been neutral largely because the affected facilities would otherwise have difficulty hiring and retaining licensed practitioners. Those practitioners have been permitted to continue employment in the same facilities they have always practiced in and permitted to continue the same kinds of medical services that they have historically provided.

However, SB 584 significantly expands the concept of this prior protective legislation with some potentially dangerous consequences for the public. It would permit health care professionals whom have not demonstrated minimum competency through an examination process to have a full and unrestricted license to practice medicine in the State of Kansas. This has the potential to compromise the safety of Kansas patients. Moreover, physicians granted licensure under this measure could seek full licensure from other states by endorsement, without having to satisfy other states' examination requirements. This has the potential to spread the risk outside our own state's borders. SB 584 could be regarded as discriminatory by those licensees whom have demonstrated their fitness to practice through standardized examination because this law allows a chosen few to circumvent those requirements. There are several thousand individuals throughout the United States whom have completed a medical degree and satisfied residency requirements but who were ultimately unable to pass these examinations. This law would permit those individuals to come to Kansas and be granted a full and unrestricted license to practice medicine. Passage of SB 584 has the potential to compromise the safety of Kansas patients.

For these reasons, KMS urges the defeat of this bill. Again, thank you for the opportunity to comment on SB 584 and I am pleased to answer any questions the committee may have.

*Senate Public Health & Welfare Committee
Date: March 5, 2002
Attachment 4*