

Approved: 2-28-03
Date

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE.

The meeting was called to order by Chairperson Jim Morrison at 1:36 p.m. on February 25, 2003, in Room 143-N of the Capitol.

All members were present except Representatives Landwehr and Holland, both of whom were excused.

Committee staff present:

Bill Wolff, Kansas Legislative Research Department
Rena Jefferies, Kansas Revisor of Statutes' Office
Gary Deeter, Committee Secretary

Conferees appearing before the committee:

Ron Hein, Legislative Attorney, Kansas Society of Radiologic Technologists
Phyllis Gilmore, Executive Director, Behavioral Sciences Regulatory Board

Others attending: See Attached Guest List

A motion was made, seconded and passed to approve the minutes for February 20 and February 24.

The Committee continued its discussion of **HB 2254**.

A motion was made and seconded to accept the balloon amendment received on February 24. (Attachment 1) After a brief discussion, the motion to amend passed unanimously.

A motion was made, seconded and passed to recommend **HB 2254** as amended favorable for passage.

A motion was made and seconded to recommend **HB 2234** as favorable for passage. Representative Kirk noted that the various interest groups had agreed to remove all references to social workers in the bill (primarily Section C) and send it to the Senate for further consideration. A motion to amend was made, seconded and passed to remove from the bill all reference to social workers.

The motion was passed to recommend **HB 2234** favorable for passage as amended.

A motion and second were made to recommend **HB 2116** favorable for passage. Members expressed concern about aspects of the bill: its duplication of services, its weighted preference for the Governor's appointments; its lack of specificity for appointments, the problem of funding sources. A motion was made and seconded to include a pharmacist in the list of appointees, making the total 23 and a quorum 12. The amendment passed.

CONTINUATION SHEET

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE at on February 25, 2003, in Room 243-N of the Capitol.

By motion and second an amendment recommended changing the language on Page 1, Line 14 from "oversee" to "review state laws and regulations in order to..." and to eliminate the sentence embraced by lines 17-19. The motion to amend passed.

A motion to table **HB 2116** was made, seconded and passed.

The Chair announced his intention to hold **HB 2274** and **HB 2170** for further study. He recognized Ron Hein, Legislative Attorney, Kansas Society of Radiologic Technologists. Mr. Hein distributed Attachment 2 to illustrate ways in which the radiologic technologists had responded to opponents of their licensure bill, adapting language and accommodating various interests to make the bill more acceptable, noting that the intent of the bill is to improve health care in Kansas, not create hardships for medical offices and hospitals. He pointed out changes that allow present personnel taking x-rays to be included in temporary licensure. The balloon amendment also creates levels of expertise among radiologists: granting a conditional license for two years while a person gains education and training, a limited license for a radiographer, and full licensure for those with adequate training and an associate degree. The amendment also grants a special license for regional hardships or emergency situations.

Phyllis Gilmore, Executive Director, Behavioral Sciences Regulatory Board, speaking regarding **HB 2170**, said she was encouraged in her dialogues with social workers, trial lawyers, and the Office of Judicial Administration, expressing hope that the differences could be worked out

The meeting was adjourned at 2:17 p.m. No further meeting was scheduled.

HOUSE BILL No. 2254

By Representative Newton

2-10

Proposed Amendments

Attachment
HHS 2-25-03

9 AN ACT concerning dependent persons; relating to the reporting of
10 abuse, neglect or exploitation of such persons; amending K.S.A. 39-
11 1401, 39-1403, 39-1404, 39-1405, 39-1406, 39-1407, 39-1408, 39-1409,
12 39-1430, 39-1432, 39-1433, 39-1436 and 39-1437 and K.S.A. 2002
13 Supp. 39-1402 and 39-1431 and repealing the existing sections.
14

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

16 New Section 1. (a) *Investigation of adult abuse.* The state depart-
17 ment of social and rehabilitation services and law enforcement officers
18 shall have the duty to receive and investigate reports of adult abuse ~~of~~
19 neglect, ~~for the purpose of determining whether the report is valid and~~
20 whether action is required to protect the adult from further abuse or
21 neglect. If the department and such officers determine that no action is
22 necessary to protect the adult but that a criminal prosecution should be
23 considered, the department and such law enforcement officers shall make
24 a report of the case to the appropriate law enforcement agency.

'
, exploitation or fiduciary abuse

25 (b) *Joint investigations.* When a report of ~~adult financial, mental or~~
26 ~~physical abuse or~~ neglect indicates (1) that there is serious physical injury
27 to or serious deterioration or sexual abuse, of the adult and (2) that action
28 may be required to protect the adult, the investigation may be conducted
29 as a joint effort between the department of social and rehabilitation serv-
30 ices and the appropriate law enforcement agency or agencies, with a free
31 exchange of information between such agencies. Upon completion of the
32 investigation by the law enforcement agency, a full report shall be pro-
33 vided to the department of social and rehabilitation services.

of, adult abuse, exploitation or fiduciary abuse
or exploitation

34 (c) *Coordination of investigations by county or district attorney.* If a
35 dispute develops between agencies investigating a reported case of adult
36 abuse ~~or neglect~~, the appropriate county or district attorney shall take
37 charge of, direct and coordinate the investigation.

, neglect, exploitation or fiduciary abuse
by a law enforcement agency

38 (d) *Investigations concerning certain facilities.* Any investigation in-
39 volving a facility subject to licensing or regulation by the secretary of
40 health and environment shall be reported promptly to the state secretary
41 of health and environment, upon conclusion of the investigation or sooner
if such report does not compromise the investigation.

43 (e) *Cooperation between agencies.* Law enforcement agencies and

1 the department of social and rehabilitation services shall assist each other
 2 in taking action which is necessary to protect the adult regardless of which
 3 party conducted the initial investigation.

4 ~~[New Sec. 2. (a) If a resident does not consent to the receipt of rea-~~
 5 ~~sonable and necessary protective services or if such resident withdraws~~
 6 ~~the consent, such services shall not be provided or continued, except that~~
 7 ~~if the secretary of social and rehabilitation services has reason to believe~~
 8 ~~that such resident lacks capacity to consent, the secretary shall seek court~~
 9 ~~authorization to provide necessary services, as provided in subsection (b).~~

10 (b) If the secretary of social and rehabilitation services finds that a
 11 resident is being or has been abused, neglected or exploited or is in the
 12 condition which is the result of such abuse, neglect or exploitation and
 13 lacks capacity to consent to reasonable and necessary protective services,
 14 the secretary shall petition the district court for appointment of a guardian
 15 or conservator, or both, for the resident pursuant to the provisions of the
 16 act for obtaining a guardian or conservator, or both in order to obtain
 17 such consent.

18 (c) In any proceeding in district court pursuant to provisions of this
 19 act, the district court shall appoint an attorney to represent the resident
 20 ~~if the resident is without other legal representation.]~~

21 ~~Sec. [3.] K.S.A. 39-1401 is hereby amended to read as follows: 39-~~
 22 ~~1401. As used in this act:~~

23 (a) "Resident" means:

24 (1) Any resident, as defined by K.S.A. 39-923 and amendments
 25 thereto; or

26 (2) any individual kept, cared for, treated, boarded or otherwise ac-
 27 commodated in a medical care facility; or

28 (3) any individual, kept, cared for, treated, boarded or otherwise ac-
 29 commodated in a state psychiatric hospital or state institution for the
 30 mentally retarded.

31 (b) "Adult care home" has the meaning ascribed thereto in K.S.A.
 32 39-923 and amendments thereto.

33 (c) "In need of protective services" means that a resident is unable
 34 to perform or obtain services which are necessary to maintain physical or
 35 mental health, or both.

36 (d) "Services which are necessary to maintain physical and mental
 37 health" include, but are not limited to, the provision of medical care for
 38 physical and mental health needs, the relocation of a resident to a facility
 39 or institution able to offer such care, assistance in personal hygiene, food,
 40 clothing, adequately heated and ventilated shelter, protection from health
 41 and safety hazards, protection from maltreatment the result of which
 42 includes, but is not limited to, malnutrition, deprivation of necessities or
 43 physical punishment and transportation necessary to secure any of the

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1 above stated needs, except that this term shall not include taking such
2 person into custody without consent, except as provided in this act.

3 (e) "Protective services" means services provided by the state or other
4 governmental agency or any private organizations or individuals which are
5 necessary to prevent abuse, neglect or exploitation. Such protective serv-
6 ices shall include, but not be limited to, evaluation of the need for serv-
7 ices, assistance in obtaining appropriate social services and assistance in
8 securing medical and legal services.

9 (f) "Abuse" means any act or failure to act performed intentionally
10 or recklessly that causes or is likely to cause harm to a resident, including:

11 (1) Infliction of physical or mental injury;

12 (2) any sexual act with a resident when the resident does not consent
13 or when the other person knows or should know that the resident is
14 incapable of resisting or declining consent to the sexual act due to mental
15 deficiency or disease or due to fear of retribution or hardship;

16 (3) unreasonable use of a physical restraint, isolation or medication
17 that harms or is likely to harm a resident;

18 (4) unreasonable use of a physical or chemical restraint, medication
19 or isolation as punishment, for convenience, in conflict with a physician's
20 orders or as a substitute for treatment, except where such conduct or
21 physical restraint is in furtherance of the health and safety of the resident
22 or another resident;

23 (5) a threat or menacing conduct directed toward a resident that re-
24 sults or might reasonably be expected to result in fear or emotional or
25 mental distress to a resident;

26 (6) fiduciary abuse; or

27 (7) omission or deprivation by a caretaker or another person of goods
28 or services which are necessary to avoid physical or mental harm or illness.

29 (g) "Neglect" means the failure or omission by one's self, caretaker
30 or another person *with a duty* to provide goods or services which are
31 reasonably necessary to ensure safety and well-being and to avoid physical
32 or mental harm or illness.

33 (h) "Caretaker" means a person or institution who has assumed the
34 responsibility, *whether legally or not*, for the care of the resident volun-
35 tarily, by contract or by order of a court of competent jurisdiction.

36 (i) "Exploitation" means misappropriation of resident property or in-
37 tentiously taking unfair advantage of an adult's physical or financial re-
38 sources for another individual's personal or financial advantage by the use
39 of undue influence, coercion, harassment, duress, deception, false rep-
40 resentation or false pretense by a caretaker or another person.

41 (j) "Medical care facility" means a facility licensed under K.S.A. 65-
42 425 *et seq.* and amendments thereto but shall not include, for purposes
43 of this act, a state psychiatric hospital ~~or state institution for the mentally~~

or state institution for the mentally

retarded, including Larned state hospital, Osawatomie state hospital; and
Rainbow mental health facility, Kansas neurological institute and Parsons
state hospital and training center.

(k) "Fiduciary abuse" means a situation in which any person who is
the caretaker of, or who stands in a position of trust to, a resident, takes,
secretes, or appropriates the resident's money or property, to any use or
purpose not in the due and lawful execution of such person's trust.

(l) "State psychiatric hospital" means Larned state hospital, Osawa-
tomie state hospital and Rainbow mental health facility.

(m) "~~State institution for the mentally retarded~~" means Kansas neu-
rological institute and Parsons state hospital and training center.

~~(n)~~ "~~Report~~" means a description or accounting of an incident or
incidents of abuse, neglect or exploitation under this act and for the pur-
poses of this act shall not include any written assessment or findings.

~~(o)~~ "~~Law enforcement~~" means the public office which is vested
by law with the duty to maintain public order, make arrests for crimes
and investigate criminal acts, whether that duty extends to all crimes or
is limited to specific crimes.

~~(p)~~ "~~Legal representative~~" means an agent designated in a durable
power of attorney, power of attorney or durable power of attorney for
health care decisions or a court appointed guardian, conservator or
trustee.

~~(q)~~ "~~Financial institution~~" means any bank, trust company, escrow
company, finance company, saving institution or credit union, chartered
and supervised under state or federal law.

~~(r)~~ "~~Governmental assistance provider~~" means an agency, or em-
ployee of such agency, which is funded solely or in part to provide assis-
tance within the Kansas senior care act, K.S.A. 75-5926 et seq., and
amendments thereto, including medicaid and medicare.

No person shall be considered to be abused, neglected or exploited or
in need of protective services for the sole reason that such person relies
upon spiritual means through prayer alone for treatment in accordance
with the tenets and practices of a recognized church or religious denom-
ination in lieu of medical treatment.

Sec. ~~4~~ K.S.A. 2002 Supp. 39-1402 is hereby amended to read as
follows: 39-1402. (a) Any person who is licensed to practice any branch
of the healing arts, a licensed psychologist, a licensed master level psy-
chologist, a licensed clinical psychotherapist, a chief administrative officer
of a medical care facility, an adult care home administrator or operator,
a licensed social worker, a licensed professional nurse, a licensed practical
nurse, a licensed marriage and family therapist, a licensed clinical mar-
riage and family therapist, licensed professional counselor, licensed clin-
ical professional counselor, registered alcohol and drug abuse counselor,

retarded

, Kansas neurological institute and Parsons
state hospital and training center

"State institution for the mentally retarded"
means Kansas neurological institute and Parsons
state hospital and training center.

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1 a teacher, ~~a bank trust officer, a guardian or a conservator, officers~~
 2 ~~employees~~ of financial institutions, a legal representative or a govern-
 3 mental assistance provider who has reasonable cause to believe that a
 4 resident is being or has been abused, neglected or exploited, or is in a
 5 condition which is the result of such abuse, neglect or exploitation or is
 6 in need of protective services, shall report immediately such information
 7 or cause a report of such information to be made in any reasonable man-
 8 ner to the department of health and environment with respect to residents
 9 defined under subsections (a)(1) and (a)(2) of K.S.A. 39-1401 and amend-
 10 ments thereto and to the department of social and rehabilitation services
 11 and appropriate law enforcement agencies with respect to all other resi-
 12 dents. Reports made to one department which are required by this sub-
 13 section to be made to the other department shall be referred by the
 14 department to which the report is made to the appropriate department
 15 for that report, and any such report shall constitute compliance with this
 16 subsection. Reports shall be made during the normal working week days
 17 and hours of operation of such departments. Reports shall be made to
 18 law enforcement agencies during the time the departments are not open
 19 for business. Law enforcement agencies shall submit the report and ap-
 20 propriate information to the appropriate department on the first working
 21 day that such department is open for business. A report made pursuant
 22 to K.S.A. 65-4923 or 65-4924 and amendments thereto shall be deemed
 23 a report under this section.

24 (b) The report made pursuant to subsection (a) shall contain the
 25 name and address of the person making the report and of the caretaker
 26 caring for the resident, the name and address of the involved resident,
 27 information regarding the nature and extent of the abuse, neglect or ex-
 28 ploitation, the name of the next of kin of the resident, if known, and any
 29 other information which the person making the report believes might be
 30 helpful in an investigation of the case and the protection of the resident.

31 (c) Any other person, not listed in subsection (a), having reasonable
 32 cause to suspect or believe that a resident is being or has been abused,
 33 neglected or exploited, or is in a condition which is the result of such
 34 abuse, neglect or exploitation or is in need of protective services may
 35 report such information to the department of health and environment
 36 with respect to residents defined under subsections (a)(1) and (a)(2) of
 37 K.S.A. 39-1401 and amendments thereto and to the department of social
 38 and rehabilitation services with respect to all other residents. Reports
 39 made to one department which are to be made to the other department
 40 under this section shall be referred by the department to which the report
 41 is made to the appropriate department for that report.

42 (d) Notice of the requirements of this act and the department to
 43 which a report is to be made under this act shall be posted in a conspic-

a bank trust officer and any other

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uous *public* place in every adult care home and medical care facility in this state.

3 (e) Any person required to report information or cause a report of
4 information to be made under subsection (a) who knowingly fails to make
5 such report or cause such report to be made shall be guilty of a class B
6 misdemeanor.

7 ~~Sec. [5]~~ K.S.A. 39-1403 is hereby amended to read as follows: 39-
8 1403. (a) Anyone participating in the making of any report pursuant to
9 this act, or in any follow-up activity to or investigation of such report or
10 any other report of abuse, neglect or exploitation of an adult or who
11 testifies in any administrative or judicial proceeding arising from such
12 report shall not be subject to any civil ~~or criminal~~ liability on account of
13 such report, investigation or testimony, unless such person acted in bad
14 faith or with malicious purpose.

15 (b) No employer shall terminate the employment of, prevent or im-
16 pair the practice or occupation of or impose any other sanction on any
17 employee solely for the reason that such employee made or caused to be
18 made a report under this act.

19 ~~Sec. [6]~~ K.S.A. 39-1404 is hereby amended to read as follows: 39-
20 1404. (a) The department of health and environment or the department
21 of social and rehabilitation services upon receiving a report that a resident
22 is being, or has been, abused, neglected or exploited, or is in a condition
23 which is the result of such abuse, neglect or exploitation or is in need of
24 protective services shall:

25 (1) When a criminal act has occurred or has appeared to have oc-
26 curred, immediately notify, *in writing*, the appropriate law enforcement
27 agency;

28 (2) make a personal visit with the involved resident:

29 (A) Within 24 hours when the information from the reporter indi-
30 cates imminent danger to the health or welfare of the involved resident;

31 (B) within three working days for all reports of suspected abuse, when
32 the information from the reporter indicates no imminent danger; or

33 (C) within five working days for all reports of neglect or exploitation
34 when the information from the reporter indicates no imminent danger.

35 (3) Complete, within 30 working days of receiving a report, a thor-
36 ough investigation and evaluation to determine the situation relative to
37 the condition of the involved resident and what action and services, if
38 any, are required. The investigation shall include, but not be limited to,
39 consultation with those individuals having knowledge of the facts of the
40 particular case; and

41 (4) prepare, upon a completion of the evaluation of each case, a writ-
ten assessment which shall include an analysis of whether there is or has
been abuse, neglect or exploitation; recommended action; a determina-

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1 tion of whether protective services are needed; and any follow up.

2 (b) The department which investigates the report shall inform the
3 complainant, upon request of the complainant, that an investigation has
4 been made and, if the allegations of abuse, neglect or exploitation have
5 been substantiated, that corrective measures will be taken if required
6 upon completion of the investigation or sooner if such measures do not
7 jeopardize the investigation.

8 (c) The department of health and environment ~~may~~ shall inform the
9 chief administrative officer of a facility as defined by K.S.A. 39-923 and
10 amendments thereto *within 30 days* of confirmed findings of resident
11 abuse, neglect or exploitation.

may

6.

12 Sec. ~~17~~ K.S.A. 39-1405 is hereby amended to read as follows: 39-

13 1405. (a) The secretary of health and environment shall forward to the
14 secretary of social and rehabilitation services any finding that a resident
15 may be in need of protective services. If the secretary of social and re-
16 habilitation services determines that a resident is in need of protective
17 services, the secretary of social and rehabilitation services shall provide
18 the necessary protective services, if a resident consents, *or if the resident*
19 *lacks capacity to consent, the secretary shall obtain consent from such*
20 *resident's legal representative.* If a resident *or such resident's legal rep-*
21 *resentative, or both,* fails to consent and the secretary of social and re-
22 habilitation services has reason to believe that such a resident lacks ca-
23 pacity to consent, the secretary of social and rehabilitation services shall
24 determine pursuant to K.S.A. 39-1408 and amendments thereto whether
25 a petition for appointment of a guardian or conservator, or both, should
26 be filed.

may

27 (b) If the caretaker *or legal representative, or both,* of a resident who
28 has consented to the receipt of reasonable and necessary protective serv-
29 ices refuses to allow the provision of such services to such resident, the
30 secretary of social and rehabilitation services ~~may~~ shall seek to obtain an
31 injunction enjoining the caretaker *or legal representative, or both,* from
32 interfering with the provision of protective services to the resident. The
33 petition in such action shall allege specific facts sufficient to show that
34 the resident is in need of protective services and consents to their pro-
35 vision and that the caretaker *or legal representative, or both,* refuses to
36 allow the provision of such services. If the judge, *by clear and convincing*
37 *evidence,* finds that the resident is in need of protective services and has
38 been prevented by the caretaker *or legal representative, or both,* from
39 receiving such services, the judge shall issue an order enjoining the care-
40 taker *or legal representative, or both,* from interfering with the provision
41 of protective services to the resident. *The court may appoint a new legal*
42 *representative if the court deems that it is in the best interest of the*
43 *resident.*

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7.

Sec. ~~18~~ K.S.A. 39-1406 is hereby amended to read as follows: 39-1406. Any person, department or agency authorized to carry out the duties enumerated in this act, *including investigating law enforcement agencies* and the long-term care ombudsman shall have access to all relevant records. The authority of the secretary of social and rehabilitation services and the secretary of health and environment under this act shall include, but not be limited to, the right to initiate or otherwise take those actions necessary to assure the health, safety and welfare of any resident, subject to any specific requirement for individual consent of the resident.

8.

Sec. ~~19~~ K.S.A. 39-1407 is hereby amended to read as follows: 39-1407. If a resident does not consent to the receipt of reasonable and necessary protective services, or if such person withdraws the consent, such services shall not be provided or continued, except that if the secretary of social and rehabilitation services has reason to believe that such resident lacks capacity to consent, the secretary ~~may~~ shall seek court authorization to provide necessary services, as provided in K.S.A. 39-1408, and amendments thereto.

9.

Sec. ~~17~~ K.S.A. 39-1408 is hereby amended to read as follows: 39-1408. (a) If the secretary of social and rehabilitation services finds that a resident is being or has been abused, neglected or exploited or is in a condition which is the result of such abuse, neglect or exploitation and lacks capacity to consent to reasonable and necessary protective services, the secretary ~~may~~ shall petition the district court for appointment of a guardian or conservator, or both, for the resident pursuant to the provisions of the act for obtaining a guardian or conservator, or both, in order to obtain such consent.

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(b) In any proceeding in district court pursuant to provisions of this act, the district court shall appoint an attorney to represent the resident if the resident is without other legal representation.

may

Sec. ~~11~~ K.S.A. 39-1409 is hereby amended to read as follows: 39-1409. In performing the duties set forth in this act, the secretary of social and rehabilitation services ~~or~~, the secretary of health and environment *or an appropriate law enforcement agency* may request the assistance of the staffs and resources of all appropriate state departments, agencies and commissions and local health departments and may utilize any other public or private agency, group or individual who is appropriate and who may be available to assist such department *or agency* in the investigation and determination of whether a resident is being, or has been, abused, neglected or exploited or is in a condition which is a result of such abuse, neglect or exploitation, except that any internal investigation conducted by any caretaker under investigation shall be limited to the least serious category of report as specified by the secretary of health and environment or the secretary of social and rehabilitation services, as applicable.

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1 Sec. ~~12~~ K.S.A. 39-1430 is hereby amended to read as follows: 39-1430. As used in this act:

and

3 (a) "Adult" means an individual 18 years of age or older alleged to
4 be unable to protect their own interest and ~~or~~ who is harmed or threat-
5 ened with harm, *whether financial, mental or physical in nature*, through
6 action or inaction by either another individual or through their own action
7 or inaction when (1) such person is residing in such person's own home,
8 the home of a family member or the home of a friend, (2) such person
9 resides in an adult family home as defined in K.S.A. 39-1501 and amend-
10 ments thereto, or (3) such person is receiving services through a provider
11 of community services and affiliates thereof operated or funded by the
12 department of social and rehabilitation services or the department on
13 aging or a residential facility licensed pursuant to K.S.A. 75-3307b and
14 amendments thereto. Such term shall not include persons to whom K.S.A.
15 39-1401 *et seq.* and amendments thereto apply.

16 (b) "Abuse" means any act or failure to act performed intentionally
17 or recklessly that causes or is likely to cause harm to an adult, including:

- 18 (1) Infliction of physical or mental injury;
- 19 (2) any sexual act with an adult when the adult does not consent or
20 when the other person knows or should know that the adult is incapable
21 of resisting or declining consent to the sexual act due to mental deficiency
22 or disease or due to fear of retribution or hardship;
- 23 (3) unreasonable use of a physical restraint, isolation or medication
24 that harms or is likely to harm an adult;
- 25 (4) unreasonable use of a physical or chemical restraint, medication
26 or isolation as punishment, for convenience, in conflict with a physician's
27 orders or as a substitute for treatment, except where such conduct or
28 physical restraint is in furtherance of the health and safety of the adult;
- 29 (5) a threat or menacing conduct directed toward an adult that results
30 or might reasonably be expected to result in fear or emotional or mental
31 distress to an adult;
- 32 (6) fiduciary abuse; or
- 33 (7) omission or deprivation by a caretaker or another person of goods
34 or services which are necessary to avoid physical or mental harm or illness.

35 (c) "Neglect" means the failure or omission by one's self, caretaker
36 or another person *with a duty to supply or provide* goods or services
37 which are reasonably necessary to ensure safety and well-being and to
38 avoid physical or mental harm or illness.

39 (d) "Exploitation" means misappropriation of an adult's property or
40 intentionally taking unfair advantage of an adult's physical or financial
41 resources for another individual's personal or financial advantage by the
use of undue influence, coercion, harassment, duress, deception, false
representation or false pretense by a caretaker or another person.

(e) "Fiduciary abuse" means a situation in which any person who is the caretaker of, or who stands in a position of trust to, an adult, takes, secretes, or appropriates their money or property, to any use or purpose not in the due and lawful execution of such person's trust or benefit.

(f) "In need of protective services" means that an adult is unable to provide for or obtain services which are necessary to maintain physical or mental health or both.

(g) "Services which are necessary to maintain physical or mental health or both" include, but are not limited to, the provision of medical care for physical and mental health needs, the relocation of an adult to a facility or institution able to offer such care, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from maltreatment the result of which includes, but is not limited to, malnutrition, deprivation of necessities or physical punishment and transportation necessary to secure any of the above stated needs, except that this term shall not include taking such person into custody without consent except as provided in this act.

(h) "Protective services" means services provided by the state or other governmental agency or by private organizations or individuals which are necessary to prevent abuse, neglect or exploitation. Such protective services shall include, but shall not be limited to, evaluation of the need for services, assistance in obtaining appropriate social services, and assistance in securing medical and legal services.

(i) "Caretaker" means a person who has assumed the responsibility, whether legally or not, for an adult's care or financial management or both.

(j) "Secretary" means the secretary of social and rehabilitation services.

(k) "Report" means a description or accounting of an incident or incidents of abuse, neglect or exploitation under this act and for the purposes of this act shall not include any written assessment or findings.

(l) "Law enforcement" means the public office which is vested by law with the duty to maintain public order, make arrests for crimes, investigate criminal acts and file criminal charges, whether that duty extends to all crimes or is limited to specific crimes.

(m) "Involved adult" means the adult who is the subject of a report of abuse, neglect or exploitation under this act.

(n) "Legal representative," "financial institution" and "governmental assistance provider" shall have the meanings ascribed thereto in K.S.A. 39-1401, and amendments thereto.

No person shall be considered to be abused, neglected or exploited or in need of protective services for the sole reason that such person relies

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1 upon spiritual means through prayer alone for treatment in accordance
2 with the tenets and practices of a recognized church or religious denom-
3 ination in lieu of medical treatment.

12.

4 Sec. ~~13~~ K.S.A. 2002 Supp. 39-1431 is hereby amended to read as
5 follows: 39-1431. (a) Any person who is licensed to practice any branch
6 of the healing arts, a licensed psychologist, a licensed master level psy-
7 chologist, a licensed clinical psychotherapist, the chief administrative of-
8 ficer of a medical care facility, a teacher, a licensed social worker, a li-
9 censed professional nurse, a licensed practical nurse, a licensed dentist,
10 a licensed marriage and family therapist, a licensed clinical marriage and
11 family therapist, licensed professional counselor, licensed clinical profes-
12 sional counselor, registered alcohol and drug abuse counselor, a law en-
13 forcement officer, a case manager, ~~a guardian or conservator, a bank trust~~
14 ~~officer, a rehabilitation counselor, a holder of a power of attorney, officers~~
15 ~~for employees~~ of financial institutions, a legal representative, a govern-
16 mental assistance provider, an owner or operator of a residential care
17 facility, an independent living counselor and the chief administrative of-
18 ficer of a licensed home health agency, the chief administrative officer of
19 an adult family home and the chief administrative officer of a provider of
20 community services and affiliates thereof operated or funded by the de-
21 partment of social and rehabilitation services or licensed under K.S.A. 75-
22 3307b and amendments thereto who has reasonable cause to believe that
23 an adult is being or has been abused, neglected or exploited or is in need
24 of protective services shall report, immediately from receipt of the infor-
25 mation, such information or cause a report of such information to be made
26 in any reasonable manner. An employee of a domestic violence center
27 shall not be required to report information or cause a report of infor-
28 mation to be made under this subsection. Other state agencies receiving
29 reports that are to be referred to the department of social and rehabili-
30 tation services *and the appropriate law enforcement agency*, shall submit
31 the report to the department *and agency* within six hours, during normal
32 work days, of receiving the information. Reports shall be made to the
33 department of social and rehabilitation services during the normal work-
34 ing week days and hours of operation. Reports shall be made to law en-
35 forcement agencies during the time social and rehabilitation services are
36 not in operation. Law enforcement shall submit the report and appro-
37 priate information to the department of social and rehabilitation services
38 on the first working day that social and rehabilitation services is in op-
39 eration *after receipt of such information*.

a bank trust officer or any other

40 (b) The report made pursuant to subsection (a) shall contain the
41 name and address of the person making the report and of the caretaker
caring for the involved adult, the name and address of the involved adult,
information regarding the nature and extent of the abuse, neglect or ex-

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1 ploitation, the name of the next of kin of the involved adult, if known,
2 and any other information which the person making the report believes
3 might be helpful in the investigation of the case and the protection of the
4 involved adult.

5 (c) Any other person, *not listed in subsection (a)*, having reasonable
6 cause to suspect or believe that an adult is being or has been abused,
7 neglected or exploited or is in need of protective services may report such
8 information to the department of social and rehabilitation services. Re-
9 ports shall be made to law enforcement agencies during the time social
10 and rehabilitation services are not in operation.

11 (d) A person making a report under subsection (a) shall not be re-
12 quired to make a report under K.S.A. 39-1401 to 39-1410, inclusive, and
13 amendments thereto.

14 (e) Any person required to report information or cause a report of
15 information to be made under subsection (a) who knowingly fails to make
16 such report or cause such report not to be made shall be guilty of a class
17 B misdemeanor.

18 (f) Notice of the requirements of this act and the department to
19 which a report is to be made under this act shall be posted in a conspic-
20 uous *public* place in every adult family home as defined in K.S.A. 39-
21 1501 and amendments thereto and every provider of community services
22 and affiliates thereof operated or funded by the department of social and
23 rehabilitation services or other facility licensed under K.S.A. 75-3307b
24 and amendments thereto, *and other institutions included in subsection*
25 *(a)*.

13. 26 Sec. ~~14~~ K.S.A. 39-1432 is hereby amended to read as follows: 39-
27 1432. (a) Anyone participating in the making of any report pursuant to
28 this act, or in any follow-up activity to or investigation of such report or
29 who testifies in any administrative or judicial proceeding arising from such
30 report shall not be subject to any civil or ~~criminal~~ liability on account of
31 such report, investigation or testimony, unless such person acted in bad
32 faith or with malicious purpose.

33 (b) No employer shall terminate the employment of, prevent or im-
34 pair the practice or occupation of or impose any other sanction on any
35 employee solely for the reason that such employee made or caused to be
36 made a report, or cooperated with an investigation, under this act. A
37 court, in addition to other damages and remedies, may assess reasonable
38 attorney fees against an employer who has been found to have violated
39 the provisions of this subsection.

14. 40 Sec. ~~15~~ K.S.A. 39-1433 is hereby amended to read as follows: 39-
41 1433. (a) The department of social and rehabilitation services upon re-
ceiving a report that an adult is being, or has been abused, neglected, or
exploited or is in need of protective services, shall:

1-13

1 (1) When a criminal act has occurred or has appeared to have oc-
2 curred, immediately notify, *in writing*, the appropriate law enforcement
3 agency;

4 (2) make a personal visit with the involved adult:

5 (A) Within 24 hours when the information from the reporter indi-
6 cates imminent danger to the health or welfare of the involved adult;

7 (B) within three working days for all reports of suspected abuse, when
8 the information from the reporter indicates no imminent danger;

9 (C) within five working days for all reports of neglect or exploitation
10 when the information from the reporter indicates no imminent danger.

11 (3) Complete, within 30 working days of receiving a report, a thor-
12 ough investigation and evaluation to determine the situation relative to
13 the condition of the involved adult and what action and services, if any,
14 are required. The evaluation shall include, but not be limited to, consul-
15 tation with those individuals having knowledge of the facts of the partic-
16 ular case. If the alleged perpetrator is licensed, registered or otherwise
17 regulated by a state agency, such state agency also shall be notified ~~im-~~
18 ~~mediately~~ *upon completion of the investigation or sooner if such notifi-*
19 *cation does not compromise the investigation.*

20 (4) Prepare, upon completion of the investigation of each case, a writ-
21 ten assessment which shall include an analysis of whether there is or has
22 been abuse, neglect or exploitation, recommended action, a determina-
23 tion of whether protective services are needed, and any follow-up.

24 (b) The secretary of social and rehabilitation services shall forward
25 any finding of abuse, neglect or exploitation alleged to have been com-
26 mitted by a provider of services licensed, registered or otherwise author-
27 ized to provide services in this state to the appropriate state authority
28 which regulates such provider. The appropriate state regulatory authority
29 may consider the finding in any disciplinary action taken with respect to
30 the provider of services under the jurisdiction of such authority.

31 (c) The department of social and rehabilitation services shall inform
32 the complainant, upon request of the complainant, that an investigation
33 has been made and if the allegations of abuse, neglect or exploitation have
34 been substantiated, that corrective measures will be taken, *upon comple-*
35 *tion of the investigation or sooner, if such measures do not jeopardize the*
36 *investigation.*

37 (d) The department of social and rehabilitation services may inform
38 the chief administrative officer of community facilities licensed pursuant
39 to K.S.A. 75-3307b and amendments thereto of confirmed findings of
40 resident abuse, neglect or exploitation.

41 ~~Sec. 16~~ K.S.A. 39-1436 is hereby amended to read as follows: 39-
1436. (a) Any person or agency which maintains records relating to the
involved adult which are relevant to any investigation conducted by the

1-14

department of social and rehabilitation services or a law enforcement agency under this act shall provide, upon the written consent of the involved adult or the involved adult's guardian, the department of social and rehabilitation services or a law enforcement agency with the necessary records to assist in investigations. Any such information shall be subject to the confidentiality requirements of K.S.A. 39-1434 and amendments thereto.

(b) The department of social and rehabilitation services or a law enforcement agency shall have access to all relevant records in accordance with the provisions of subsection (a).

16.

Sec. [17] K.S.A. 39-1437 is hereby amended to read as follows: 39-

1437. (a) If the secretary determines that an involved adult is in need of protective services, the secretary shall provide the necessary protective services if the adult consents, or if the adult lacks capacity to consent, the secretary shall obtain consent from such adult's legal representative. If the involved adult fails to consent and the secretary has reason to believe that the involved adult lacks capacity to consent, the secretary shall determine whether a petition for appointment of a guardian or conservator, or both, should be filed. If such determination is made, the secretary shall petition the district court for appointment of a guardian or conservator, or both, for an involved adult pursuant to the provisions of the act for obtaining a guardian or conservator, or both.

may

may

(b) If the caretaker or legal representative of an involved adult who has consented to the receipt of reasonable and necessary protective services refuses to allow the provision of such services to the adult, the secretary may seek an injunction enjoining the caretaker or legal representative from interfering with the provision of protective services to the adult. The petition in such action shall allege specific facts sufficient to show that the adult is in need of protective services and consents to their provision and that the caretaker or legal representative refuses to allow the provision of such services. If the judge finds, by clear and convincing evidence, that the adult is in need of protective services and has been prevented by the caretaker or legal representative from receiving such services, the judge shall issue an order enjoining the caretaker or legal representative from interfering with the provision of protective services to the adult. The court may appoint a new legal representative, if the court deems that it is in the best interest of the adult.

Sec. [18] K.S.A. 39-1401, 39-1403, 39-1404, 39-1405, 39-1406, 39-1407, 39-1408, 39-1409, 39-1430, 39-1432, 39-1433, 39-1436 and 39-1437 and K.S.A. 2002 Supp. 39-1402 and 39-1431 are hereby repealed.

Sec. [19] This act shall take effect and be in force from and after its publication in the statute book.

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February 25, 2003

Rep. Jim Morrison, Chairman HHHS
Rep. Peggy Long, Vice Chairman HHHS and HB 2274 mentor
Rep. Josh Svaty, HHHS Member and HB 2274 mentor
Rep. Nancy Kirk, Ranking Minority Member, HHHS
300 SW 10th Street
Topeka, KS 66612

Dear Representatives Morrison, Long, Svaty and Kirk:

Attached are balloon amendments to address objections raised by the various conferees regarding licensure of radiologic technologists.

Many of the opponents raised concerns about the ability to hire properly trained individuals after the effective date of the act. I would remind you that there are currently 2,600 radiologist technologists in the state who meet the standards set out by the American Registry of Radiologic Technologists. In addition, the bill has a broad grandfather clause either based upon an experience criteria or upon an attestation criteria.

The balloon amendments provide for a limited license for persons practicing in physicians' offices or small hospitals (fewer than 50 bed). The amendments provide that a person hired by a physician clinic or a small hospital after the effective date of this act would only have to meet the 18 years of age and high school graduation requirements, and would be given a conditional license for up to two years. During this time, they could take a limited license examination provided by the American Registry of Radiologic Technologists or the other organizations that provide limited license exams. (The American Registry of Radiologic Technologists also provides the podiatric examination.)

This limited license would permit an individual to be licensed for limited purposes without having to obtain a two year associate of arts degree to become a fully licensed radiologic technologist. These limited license exams provide for a minimum training regarding operation and safety of the x-ray equipment, and the ability to conduct the limited scope of radiography.

Attachment 2
HHS 2-25-03

There would be no limited licenses for radiation therapists or nuclear medicine technologists, both of which categories of radiologic technologists would have to obtain the full level of training due to the greater risk of harm to the patient from using high dose radiation for therapeutic purposes or for using radio-pharmaceuticals.

The proposed amendments also provide a mechanism for the Board of Healing Arts to issue a special license to an unlicensed person because of regional hardship or emergency conditions.

In short, there should be no individuals practicing before the effective date of the act, or hired or attempted to be hired after the effective date of the act, who would not be able to be hired to practice either in an urban setting, or in the most remote or sparsely populated rural setting, either in a small hospital or a physician's clinic.

Our goal is simply to insure that people receive minimal training and continuing education, and that, in the long run, there is improved education by all those who are operating radiologic machinery for diagnostic or therapeutic purposes.

I would also note that the balloon amendments address the other minor issues raised by opponents.

I have provided copies of the balloon amendments to all the groups that testified.

Thank you for your consideration.

Sincerely,



Ronald R. Hein
Legislative Counsel
Kansas Society of Radiologic Technologists

RRH:djc
Enclosures

cc: House Health and Human Services Committee Members
Kansas Society of Radiologic Technologists Legislative Committee

HOUSE BILL No. 2274

By Committee on Health and Human Services

2-11

9 AN ACT providing for the regulation and licensing of radiologic tech-
10 nologists; granting powers and duties of the state board of healing arts;
11 establishing a radiologic technology council and providing for the func-
12 tions thereof; declaring unlawful acts and penalties.

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

15 Section 1. Sections 1 through 14 and amendments thereto shall be
16 known and may be cited as the radiologic technologists practice act.

17 Sec. 2. As used in this act:

18 (a) "Board" means the state board of healing arts.

19 (b) "Ionizing radiation" means x-rays, gamma rays, alpha and beta
20 particles, high speed electrons, protons, neutrons and other nuclear par-
21 ticles capable of producing ions directly or indirectly in its passage
22 through matter.

23 (c) "License" means a certificate issued by the board authorizing the
24 licensee to perform radiologic technology procedures on humans for di-
25 agnostic or therapeutic purposes.

26 (d) "Licensed practitioner" means a person licensed to practice med-
27 icine and surgery, dentistry, podiatry, chiropractic or osteopathic medi-
28 cine and surgery in this state.

29 (e) "Nuclear medicine technologist" means a person who uses radi-
30 opharmaceutical agents on humans for diagnostic or therapeutic
31 purposes.

32 (f) "Nuclear medicine technology" means the use of radionuclides on
33 human beings for diagnostic or therapeutic purposes.

34 (g) "Radiation therapist" means a person who applies radiation to
35 humans for therapeutic purposes.

36 (h) "Radiation therapy" means the use of any radiation procedure or
37 article intended for the cure, mitigation or prevention of disease in
38 humans.

39 (i) "Radiographer" means a person who applies radiation to humans
40 for diagnostic purposes.

41 (j) "Radiography" means the use of ionizing radiation on human be-
42 ings for diagnostic purposes.

43 (k) "Radiologic technologist" means any person who is a radiogra-

(e) "Limited license" means a certificate issued by the board, authorizing a person to conduct diagnostic radiology examinations limited to the performance of specific medical imaging procedures on specific parts of the human body.

(f) "Limited radiographer" means a person who has met minimum requirements for a limited license pursuant to this act.

(Reletter)

1 pher, radiation therapist or nuclear medicine technologist.

2 (l) "Radiologic technology" means the use of radioactive substance
3 or equipment emitting or detecting ionizing radiation on humans for di-
4 agnostic or therapeutic purposes upon prescription of a licensed practi-
5 tioner. The term includes the practice of radiography, nuclear medicine
6 technology and radiation therapy, but does not include echocardiography,
7 diagnostic sonography and magnetic resonance imaging.

8 Sec. 3. (a) No person, other than a licensed practitioner or licensed
9 radiologic technologist shall perform radiologic technology procedures on
10 humans for diagnostic or therapeutic purposes unless the person pos-
11 sesses a valid license issued under this act within that specific category.

12 (b) A person holding a license under this act shall use radioactive
13 substances or equipment for radiologic technology procedures on humans
14 only for diagnostic or therapeutic purposes by prescription of a licensed
15 practitioner, and only if the application of a substance or the use of equip-
16 ment is limited in a manner herein specified.

17 (c) Only persons licensed under this act shall be entitled to use the
18 title or designated letters of this act. No person shall depict one's self
19 orally or in writing, expressly or by implication, as holder of a license who
20 does not hold a current license under this act.

21 (d) No person shall employ a person to engage in the practice of
22 radiologic technology unless the person possesses a valid license issued
23 under the provisions of this act within that specific category.

24 (e) Nothing in the provisions of this act relating to radiologic tech-
25 nology procedures shall limit, enlarge or affect the practice of a licensed
26 practitioner.

27 Sec. 4. ~~(a)~~ On and after January 1, 2004, it shall be unlawful for any
28 person who is not licensed under this act or whose license has been sus-
29 pended or revoked to hold one's self out to the public as a licensed ra-
30 diologic technologist, or use the words radiologic technologist, radiogra-
31 pher, nuclear medicine technologist or radiation therapist or any other
32 words, letters, abbreviations or insignia indicating or implying that such
33 person is a radiologic technologist to practice the art and science of ra-
34 diologic technology.

35 ~~(b) Any violation of this section shall constitute a class B~~
36 ~~misdemeanor.~~

37 Sec. 5. The following shall be exempt from the provisions of this act
38 and the requirement of a license pursuant to this act:

39 (a) a licensed practitioner;

40 (b) a resident physician or a student enrolled in and attending a
41 school while under the direct supervision of a licensed practitioner, ra-
42 diographer, radiation therapist or nuclear medicine technologist; and

43 (c) health care providers in the United States armed forces, public

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1 health services, federal facilities and other military service when acting in
2 the line of duty in this state;

3 ~~(d) dentists, dental hygienists and dental assistants practicing their~~
4 ~~professions, when licensed and practicing in accordance with the provisions~~
5 ~~of law.~~

a licensed dentist, a licensed dental hygienist or an unlicensed person working under the supervision of a licensed dentist who has been trained by a licensed dentist on the proper use of dental radiographic equipment for the purpose of providing medical imaging for dental diagnostic purposes consistent with K.S.A. 65-1422 et. seq. and amendments thereto.

6 Sec. 6. (a) There is established the radiologic technology council to
7 assist the state board of healing arts in carrying out the provisions of this
8 act. The council shall consist of ~~nine~~ members, all citizens and residents
9 of the state of Kansas appointed as follows: ~~The board shall appoint two~~
10 ~~members, at least one of whom shall be a physician.~~ The governor shall
11 appoint: Two members who shall be radiographers; one member who
12 shall be a nuclear medicine technologist; one member who shall be a
13 radiation therapist; one member who shall be a hospital administrator
14 currently employed by a hospital; and two members ~~who shall be physi-~~
15 ~~cians~~ specializing in radiology.

seven

, one of whom shall be a physician

16 (b) Council members shall have been actively practicing in their fields
17 for not less than five years.

18 (c) The terms of office shall be four years, except that of the members
19 first appointed, three shall be appointed for a term of one year, ~~three~~ for
20 a term of two years, and ~~three~~ for a term of three years, with successor
21 members appointed for four years. If a vacancy occurs on the council,
22 the appointing authority of the position which has become vacant shall
23 appoint a person of like qualifications to fill the vacant position for the
24 unexpired term.

two
two

25 (d) Radiologic technologists initially appointed to the council must be
26 eligible for licensure under section 9 and amendments thereto. On and
27 after, January 1, 2004, new appointees must be licensed under the provisions
28 of this act.

29 (e) The council, ~~for administrative purposes,~~ shall meet at least once
30 each year at a time and place of its choosing and at such other times as
31 may be necessary on the chairperson's call. ~~The first meeting of the council~~
32 ~~shall be for organization purposes only.~~

33 (f) A majority of the council constitutes a quorum. No action may be
34 taken by the council except by affirmative vote of the majority of the
35 members present and voting.

36 (g) Members of the council attending meetings of the council, or a
37 subcommittee of the council, shall be paid amounts provided in subsection
38 (e) of K.S.A. 75-3223, and amendments thereto, from the healing
39 arts fee fund.

40 Sec. 7. The radiologic technology council shall advise the board
41 regarding:

42 (a) Examination and licensing fees;

43 (b) rules and regulations to be adopted to carry out the provisions of

1 this act;

2 (c) subject areas to be covered during schooling and on the licensure
3 examination;

4 (d) the number of yearly continuing education hours required to
5 maintain active licensure;

6 (e) changes and new requirements taking place in the area of radiol-
7 ogic technology; and

8 (f) such other duties and responsibilities as the board may assign.

9 Sec. 8. (a) The board, with the advice and assistance of the radiologic
10 technology council, shall pass upon the qualifications of all applicants for
11 examination and licensing, contract for examinations, determine the ap-
12 plicants who successfully pass the examination, duly license such appli-
13 cants, adopt rules and regulations as may be necessary to administer the
14 provisions of this act, and amendments thereto, and prescribe forms
15 which shall be issued in the administration of this act.

16 (b) The board shall establish, with the advice and assistance of the
17 examining council, by rules and regulations, standards for approval of an
18 educational course of study and clinical experience, continuing education
19 criteria, practice protocols, criteria for registration procedures for the
20 examination of applicants and standards for professional conduct and
21 discipline.

22 (c) The board shall keep a record of all proceedings under this act,
23 and amendments thereto, and a roster of all individuals licensed under
24 this act.

25 (d) The board, after obtaining the advice and assistance of the ra-
26 diologic technology council, shall establish by rules and regulations, the
27 effective period for a license under this act and for its expiration at the
28 end of that time unless renewed in a manner prescribed by the board
29 upon payment of the license renewal fee established under section 11,
30 and amendments thereto. The board may establish additional require-
31 ments for license renewal which provide for completing the required
32 number of continuing education courses and any other evidence of con-
33 tinued competency the board may require. The board may provide for
34 the late renewal of a license upon the payment of a late fee established
35 under section 11, and amendments thereto, but no such late renewal of
36 a license may be granted more than five years after its expiration.

37 (e) After obtaining the advice and assistance of the radiologic tech-
38 nology council, the board shall establish by rules and regulations, proce-
39 dures for reinstatement of expired and revoked licenses.

40 (f) A person whose license is suspended shall not engage in any con-
41 duct or activity in violation of the order by which the license was sus-
42 pended. If a license revoked on disciplinary ground is reinstated, the
43 licensee, as a condition of reinstatement, shall pay the license renewal fee

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1 and any other late fee that may be applicable.

2 Sec. 9. (a) An applicant applying for licensure as a radiologic tech
3 nologist shall file a written application on forms provided by the board
4 showing to the satisfaction of the board that the applicant meets the
5 following requirements: (1) At the time of the application is at least 17
6 years of age, and (2) has successfully completed a four-year course of
7 study in a secondary school approved by the state board of education
8 passed an approved equivalency test or has graduated from a secondary
9 school outside Kansas having comparable approval by the state board of
10 education.

11 (b) In addition to the requirements of subsection (a), any person
12 seeking to obtain a license shall specify a specific area of radiologic tech
13 nology and shall comply with the following requirements:

14 (1) (A) Each applicant for a license as a radiographer shall have sat
15 isfactorily completed a course of study in radiography which is approved
16 by the board; (B) each applicant for a license as a radiation therapist shall
17 have satisfactorily completed a course of study in radiation therapy which
18 is approved by the board; and (C) each applicant for a license as a nuclear
19 medicine technologist shall have satisfactorily completed a course of study
20 in nuclear medicine technology, which is approved by the board.

21 (2) Except as provided in section 10, and amendments thereto, ha
22 successfully passed a license examination approved by the board.

23 (3) has paid all fees required for licensure prescribed in this act.

24 (c) An applicant for renewal shall submit proof of having successfully
25 completed continuing education courses as prescribed by rules and
26 regulations.

27 (d) The board may accept, in lieu of its own licensure examination, a
28 current certificate by the American registry of radiologic technologists,
29 nuclear medicine technologist certification board or other recognized na
30 tional voluntary credentialing bodies, which the board finds was issued
31 on the basis of an examination which meets standards at least as stringent
32 as those established by the board.

33 (e) The board may waive the examination, education or experience
34 requirements and grant licensure to any applicant who presents proof of
35 current licensure as radiologic technologist in another state, the District
36 of Columbia or territory of the United States which requires standards
37 for licensure determined by the board to be equivalent to the require
38 ments under this act.

39 (f) The board may issue a temporary license to an applicant for li
40 censure who applies for temporary licensure on a form provided by the
41 board, who meets the requirements for licensure or who meets all the
42 requirements for licensure except examination and who pays to the board
43 the temporary license fee as required under section 11, and amendments

in the specialties set out in this section

The curriculum for each course of study shall be no less stringent than the standards of existing organizations which approve radiologic technology programs.

(c) An applicant applying for licensure as a radiologic technologist specializing in radiography may seek, in lieu of a radiographer license, a limited radiographer license for purposes of working in a physician office or a hospital of less than 50 beds. Such applicant shall be granted a conditional limited license upon satisfaction of the requirements of subsection (a) of this section. Such conditional license shall expire one year from the date of issue or the date that the board approves the application for licensure, whichever occurs first. The board may grant one one-year renewal of such conditional licenses.

An applicant for a limited license may take one or more examinations for all or any portion of the limited license categories. The board may utilize, in lieu of its own examination, a limited scope radiography examination administered by the American registry of radiologic technologists or other organizations providing such limited license examinations as approved by the board. Upon satisfactory completion of such examination or examinations, such applicant shall be granted a limited license for such procedures.

The board may issue, individually or in combination, limited licenses, or conditional licenses, for the scope of each limited license, as follows: (1) Chest radiography: radiography of the thorax, heart, and lungs; (2) Extremities radiography: radiography of the upper and lower extremities; (3) Spine radiography: radiography of the vertebral column; (4) Skull/sinus radiography: radiography of the skull and sinuses; (5) Podiatric radiography: radiography of the foot and ankle.

No person with a conditional or a limited license shall be permitted to perform activities within the scope of practice of radiologic technologists set out in this act in a hospital facility of 50 or more beds.

The board may issue a special license to an unlicensed person to practice as a limited radiographer if necessary because of regional hardship or emergency condition. The board shall not grant more than one special license to a person. Special licenses shall expire in 12 months. The application and proper fee must be accompanied by written request from the radiologist, physician, or hospital citing the hardship or emergency condition necessitating such employment. The board shall require the applicants employer or prospective employer to demonstrate that recruitment of qualified personnel, at competitive compensation, has been attempted and was unsuccessful.

(Reletter subsections)

waive

1 thereto. Such temporary license shall expire 180 days from the date of
2 issue or on the date that the board approves the application for licensure,
3 whichever occurs first. No more than one such temporary license shall
4 be permitted to any one person.

5 (g) A person whose license has been revoked may make written ap-
6 plication to the board requesting reinstatement of the license in a manner
7 prescribed by the board, which application shall be accompanied by the
8 fee provided for in section 11, and amendments thereto.

9 (h) A licensee holding a license under this act whose license has
10 lapsed and who has ceased activities permitted in this act, may apply for
11 relicensure upon making a request for renewal upon a form provided by
12 the board and payment of a fee set by the board and satisfactorily meeting
13 the requirements established by rules and regulations of the board.

14 (i) At least 30 days before the expiration of a license issued under this
15 act, the board shall notify the licensee of the expiration date by mail
16 addressed to the licensee's last mailing address as noted upon office
17 records.

18 (j) A licensee holding a license under this act shall notify the board
19 in writing within 30 days of any name or address change.

20 Sec. 10. The board shall waive the education and examination
21 requirements for applicants who, on the effective date of this act:

22 (a) have been engaged in the practice of radiologic technology in the
23 specialty or specialties for which application is made for a period of at
24 least two years of the three years immediately preceding the effective
25 date of this act; are 18 years of age or older; and have successfully com-
26 pleted secondary schooling or its equivalency; or

27 (b) have engaged in the practice of radiologic technology in the spe-
28 cialty or specialties for which application is made prior to the effective
29 date of this act; submit an affidavit from a hospital administrator, an af-
30 fidavit from a radiologist, and an affidavit from a licensed practitioner
31 other than the radiologist attesting to the applicant's competency in the
32 practice of radiologic technology; are 18 years of age or older; and have
33 successfully completed secondary schooling or its equivalency.

two of the following,
or
a

34 Sec. 11. (a) The board shall charge and collect in advance fees pro-
35 vided for in this act as fixed by the board by rules and regulations, but
36 not exceeding:

37 Application for examination	\$200	
38 Application for license.....	50	80
39 Temporary licensing fee.....	50	40
40 License renewal.....	50	80
41 Late license renewal.....	60	80
42 License reinstatement fee.....	50	80
43 Certified copy of license	20	40

Limited license	80
Special license	80
<hr/>	
	25

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1 Verified copy 10

2 (b) If the examination is not administered by the board, the board

3 may require that fees paid for any examination under the radiologic tech-

4 nologists practice act be paid directly to the examination service by the

5 person taking the examination.

6 Sec. 12. (a) The license of a licensee may be limited, suspended or

7 revoked, or the individual may be censured, reprimanded, and, pursuant

8 to K.S.A. 65-2863a, and amendments thereto, or otherwise sanctioned by

9 the board in accordance with the provisions and procedures of this act or

10 an application for a license may be denied if it is found that the individual:

11 (1) Is guilty of fraud or deceit in the procurement or holding of the

12 license;

13 (2) has been convicted of a felony in a court of competent jurisdiction,

14 either within or outside of this state, unless the conviction has been re-

15 versed and the holder of the license discharged or acquitted or if the

16 holder has been pardoned with full restoration of civil rights in which

17 case the license shall be restored;

18 (3) is addicted to or has distributed intoxicating liquors or drugs for

19 other than lawful purposes;

20 (4) the licensee is found to be mentally or physically incapacitated to

21 such a degree that in the opinion of the board, continued practice by the

22 licensee would constitute imminent danger to the public's health and

23 safety;

24 (5) has aided and abetted a person who is not a licensee under this

25 act or is not otherwise authorized to perform the duties of a license holder

26 under this act;

27 (6) has undertaken or engaged in any practice beyond the scope of

28 duties permitted a licensee under this act;

29 (7) has engaged in the practice of radiologic technology under a false

30 or assumed name or the impersonation of another licensee;

31 (8) has been found guilty of unprofessional conduct which the board

32 may establish by rules and regulations;

33 (9) has interpreted a diagnostic image for a fee; or

34 (10) is, or has been found guilty of incompetence or negligence while

35 performing as a license holder.

36 (b) The denial, refusal to renew, suspension or revocation of a license

37 may be ordered by the board after notice and hearing on the matter in

38 accordance with the provisions of the Kansas administrative procedure

39 act.

40 Sec. 13. When it appears that any person is violating any provision

41 of this act, the board may bring an action in the name of the state in a

42 court of competent jurisdiction for an injunction against such violation

43 without regard as to whether proceedings have been or may be instituted

, limitation

2-10

1 the board or whether criminal proceedings have been or may be
2 instituted.

3 Sec. 14. The board shall remit all moneys received by or for the
4 board from fees, charges or penalties to the state treasurer in accordance
5 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
6 receipt of each such remittance, the state treasurer shall deposit the entire
7 amount in the state treasury. Twenty percent of such amount shall be
8 credited to the state general fund and the balance shall be credited to the
9 healing arts fee fund. All expenditures from the healing arts fee fund shall
0 be made in accordance with appropriation acts upon warrants of the di-
1 rector of accounts and reports issued pursuant to vouchers approved by
2 the president of the board or by a person or persons designated by the
3 president.

4 Sec. 15. This act shall take effect and be in force from and after its
5 publication in the statute book.

Sec. 15 Any violation of this act shall constitute a class B misdemeanor.