

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 1:36 p.m. on March 11, 2004, in Room 526-S of the Capitol.

All members were present except:

Representative Don Hill- excused
Representative Joe McLeland - excused

Committee staff present:

Dr. William Wolff, Legislative Research Department
Renae Jefferies, Office of Revisor of Statutes
Gary Deeter, Secretary

Conferees appearing before the committee:

Phyllis Gilmore, Executive Director, Behavioral Sciences Regulatory Board

Others attending:

See Attached List.

The minutes for 3-10-04 were approved.

For purposes of hearing proposed legislation, Representatives Nancy Kirk and Cindy Neighbor assumed the chair. Representative Kirk opened the hearing on **SB 443**, a bill amending statutes under the Behavioral Sciences Regulatory Board regarding disciplinary action.

Phyllis Gilmore, Executive Director, Behavioral Sciences Regulatory Board, spoke as a proponent, saying that the Board regulates the majority of mental health professions in Kansas. (Attachment 1) She said the bill relates to several areas of disciplinary authority of the Board: conditioning of a license, assessing the costs of disciplinary action to the unsuccessful party, and requesting an injunction, restraining order or other court order. She noted that the language equalizes the Board actions among the various professions. She also noted that the Board has made progress in eliminating the backlog regarding disciplinary actions, moving from 100 cases pending four years ago to 26 active cases at the present.

Answering a question about how the term *condition* refers to a license, Camile Nole, Assistant Attorney General, explained that a condition is a stipulation added to a license that limits the individual's scope of practice in some way. To another question Roger Scurlock, Special Investigator, BSRB, replied that some complaints are resolved the same day, most within a month, and that complex ones may take up to a year.

The chair closed the hearing on **SB 443** and opened the hearing on **SB 452**, an act regulating psychologists and assistants. Phyllis Gilmore stated that the bill repeals the part of the statute that allows an unlicensed assistant to work under a licensed psychologist. (Attachment 2) She said that through a survey Dr. Richard Maxfield, a BSRB member and practicing psychologist, discovered that the law applies to only

CONTINUATION SHEET

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six individuals in Kansas and concluded that the law is no longer necessary. Ms. Gilmore said the temporary licensure law passed in 1999 has supplanted the unlicensed assistant statute, noting that the bill grandparents those unlicensed individuals presently practicing under a licensed psychologist.

The Chair closed the hearing on **SB 452**.

Staff Bill Wolff provided a briefing on **SB 425**, saying the bill gives the Kansas Dental Board additional authority to regulate the use and type of anesthesia being administered by dentists and sets requirements for periodic renewal to assure dentists keep current in their use of anesthesia. He noted that dentists would now be subject to inspections regarding their use of anesthesia. Answering a question, Dr. Wolff said that the regulations would not apply to dentists participating in charitable work outside the office, since the bill focuses on office practice.

Chairman Morrison announced that there has been interest beyond the state regarding the pilot electronic committee project, noting that by the next session there may be available many enhancements in hardware and software as well as significantly increasing ease of use.

A motion was made and seconded to recommend **SB 443** as favorable for passage, with a further recommendation to place it on the Consent Calendar. The motion passed.

By motion and second **SB 452** was recommended as favorable for passage, also recommended to be placed on the Consent Calendar. The motion passed.

A motion was passed to work **SB 418**

A further motion and second recommended that the amendment suggested by the Kansas Medical Society for **SB 418** be adopted. The motion passed. The amendment inserts at page 2, line 26: *All medical records reviewed and maintained by the Department pursuant to this section shall be kept confidential and shall not be disclosed except upon the order of a court of competent jurisdiction and shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil matter.*

A motion was made and seconded to recommend favorably **SB 418** as amended. The motion passed.

A motion was made, seconded and passed with one dissent to reconsider **SB 511**.

The Chair invited comments from the audience regarding **SB 511**. Chris Collins, with the Kansas Medical Society, said that members of the Society had expressed concerns that the standards put into law could hamper future advances in screening techniques. She offered to work out language with Susan Kang, Policy Director, Kansas Department of Health and Environment, to accommodate these concerns. Ms. Kang replied that she would work with KMS to develop acceptable language.

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The Committee by consensus agreed to consider working the bill when informed by the principals that the language issues had been resolved. Ms. Kang and Ms. Collins said they planned to have language ready before the end of the 2004 session. The Chair requested the amendment language be received by Wednesday, March 17.

The Committee was adjourned at 2:30 p.m. The next meeting is scheduled for Monday, March 15, 2004.

**HOUSE HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST**

DATE: MARCH 11 2004

NAME	REPRESENTING
Susan Kang	Kdhe
Andy Shaw	MOI
Maisha Schremp	BSRB
Daphne Gilmore	BSRB
Jaime Gilbert	Washburn Univ BSW Student
Roger Scurlough	BSRB
Carolyn S Nelson	KDHE
Linda Kusey	KDHE
Camille Vohse	AG
Norm Hess	Much of Dimes
Christina Collins	Kansas Medical Society
Ramie Ann Lower	KAHP
Diane Kramer	Emporia Public Schools
Ron Seiber	Hess Law Firm

Kathleen sebelius
Governor

PHYLLIS GILMORE
Executive Director



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BEHAVIORAL SCIENCES REGULATORY BOARD

**HOUSE TESTIMONY
HEALTH AND HUMAN SERVICES
MARCH 11, 2004**

SB 443

Mr. Chairman and Committee Members:

Thank you for the opportunity to testify today in support of SB 443. I am Phyllis Gilmore the Executive Director of the Kansas Behavioral Sciences Regulatory Board (BSRB).

The BSRB is the licensing board for most of the state's mental health professionals, the doctoral level psychologists, the master level psychologists, the clinical psychotherapists, the bachelor, master and clinical level social workers, the master and clinical level professional counselors, and the master and clinical level marriage and family therapists. Additionally, some of the drug and alcohol counselors are registered with the board, although most of them are certified with SRS at the present time.

SB 443 relates to several areas of disciplinary authority of the board. The conditioning of a license, assessing the costs of disciplinary action to the unsuccessful party and requesting an injunction, restraining order, or other such order from a court are areas of authority currently held by some of our professions, but not all. The ability to assess a fine of up to \$1,000 per violation, to issue a cease and desist order and to revoke a license after it has been voluntarily surrendered would be new areas of authority to the BSRB and all of its professions. However, other Kansas licensure boards hold these powers.

One area where the BSRB has made great progress in recent years is in the timeliness of disciplinary action. A backlog no longer exists. Four years ago when I came to the BSRB there was a backlog of over 100 cases. Today we have 26 active cases. We have a very diligent investigator and through his leadership, the board has instituted a new complaint review committee process that has enhanced efficiency and consistency. SB 443 is one of the outcomes of this committee. It is brought forth with the unanimous recommendation of the entire board and will help to continue the positive direction of our improved disciplinary process.

Thank you for the opportunity to speak to you this afternoon. I will be happy to stand for questions.

*Attachment 1
HHS 3-11-04*

KATHLEEN SEBELIUS
Governor

PHYLLIS GILMORE
Executive Director



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presented

TO: Chairman and Members of the House Public Health and Welfare Committee

DATE: 3-11-04

RE: Senate Bill #452
Repealing Section E of KSA 74-5344, commonly referred to as the Unlicensed Assistant Section.

This section of the licensure of psychologist act was created in order to allow psychologists to employ and to supervise "Unlicensed Assistants". At the time of enactment the only regulated professions in the mental health field were Licensed Psychologist, and I believe, Licensed Social Workers.

In the ensuing years a number of other professionals have gained licensure or certification and fall under the regulation of the Behavioral Sciences Regulatory Board. Those groups include various levels of licensed or regulated social workers, professional counselors, registered master's level psychologists, clinical psychotherapists, professional counselors, drug and alcohol abuse counselors, and marital and family therapists. Generally, professionals employed as unlicensed assistants would now fall into one of the above noted regulated professions, thus making the exception to the psychologist's practice act essentially irrelevant.

In addition, a number of unlicensed assistants were employed while completing their training or after moving to the state prior to full licensure. The Behavioral Sciences Regulatory Board is now capable of granting temporary license to such persons, allowing them to practice and to be regulated under the auspices of the Behavioral Sciences Regulatory Board.

In a survey conducted by Larry Hayes, PhD, my predecessor as a psychologist member of the Behavioral Sciences Regulatory Board, he found broad and substantial support from licensed psychologists in regard to repealing this section of law. He found that 78% of those responding to his inquiry supported the repealing and the statute, 9% were opposed, 7% favored some revision, the remainder expressed no opinion. Only one of the psychologists in opposition to the repeal noted that he currently, and has for some time, employed an unlicensed assistant. The Kansas Psychological Association is also in favor of this appeal.

The Assistant Attorney General advising the Behavioral Sciences Regulatory Board has stated that the regulations pertaining to the employment of unlicensed assistants and therefore oversight of their practices is on shaky legal ground. Thus, in her opinion the Behavioral Sciences Regularly Board may not have legal authority to regulate the practice of unlicensed assistants, leaving the public in a position of vulnerability.

Attachment 2
1445 3-11-04