

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 1:45 p.m. on February 17, 2004 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Ms. Emalene Correll, Legislative Research
Mr. Norm Furse, Revisor of Statutes
Mrs. Diana Lee, Revisor of Statutes
Ms. Margaret Cianciarulo, Committee Secretary

Conferees appearing before the committee:

Others attending:

Please See Attached List.

Action and Update on Previous Introduction of Legislation

Upon calling the meeting to order, the Chair presented an update on the two pieces of legislation she had introduced and discussed previously in Committee. The first, regulating the sale of soft drinks in schools during lunch and breakfast was discussed when the Committee was reviewing obesity in the United States. She had received some NCSL literature saying Kansas was one of the few states who did not have regulation. However she stated, upon further checking, she found that Kansas is regulated by the US Department of Agriculture so the proposed legislation is already being done in Kansas. Also, in talking to the manufacturers, the Chair found they do not sell the soft drinks at grade schools. Therefore, the Chair concluded that legislation was unnecessary.

The second piece of legislation concerns thimerosal, a mercury-based preservative and vaccine. A motion was made based on the fact that information from the Institute of Medicine was forthcoming, but it was found that only a meeting was held which brought forth new research but no conclusion (ex. Relating to autism and thimerosal.) She stated the bill was debatable and several states have introduced a ban on thimerosal and vaccines, but felt that the Committee does not have enough information to draw a conclusion on it. The Chair then made a motion to withdraw her motion for a bill draft on thimerosal and as a Committee, suggested they continue monitoring this information. Senator Brungardt seconded the motion and the motion carried.

Action on SB366 - cancer registry

The Chair then announced that she would like to work SB 366 - an act concerning the cancer registry; relating to the definition of health care provider and parties required to report to the registry. The Chair referred the Committee to a balloon being offered as there is no definition of "physician" in the statutes and in order to make this work, the Committee needed to take it back to a "person licensed to practice medicine or surgery." A copy of the balloon is (Attachment 1) attached hereto and incorporated into the Minutes as referenced. A motion was made by Senator Steineger to amend the bill. It was seconded by Senator Brungardt and the motion passed. A motion was made Senator Brungardt to advance favorably as amended, seconded by Senator Journey, and the motion passed.

Action on SB443 - behavioral science regulatory board relating to disciplinary authority

She then asked the Committee to turn their attention to SB443 - an act concerning the behavioral science regulatory board; relating to disciplinary authority. Again, the Chair referred the Committee to the balloon that she believes the Executive Director worked on with the Revisor. The Chair then asked Mr. Furse to explain the balloon. A copy of the balloon is (Attachment 2) attached hereto and incorporated into the Minutes as referenced. Highlights included:

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- 1) The material within the brackets will be deleted and the information on page 1 is current law;
- 2) Balloon changes begin on page 3 with the addition of a comma on line 32;
- 3) On page 4 are technical updates of the statute:
- 4) Adding an "a" on line 16, as "b" & "c" will be added on the next page which will re-designate all;
- 5) Of the numbered sections from letters to numbers;
- 6) Throughout this section there are references to the acts that the Board administers and in some cases to specific sections because they are not named acts, so 65-6301 through 65-6318, the act that regulates social workers, but not a named act, must be submitted by sections. Since the last time this was amended, two sections have been added to the social workers licensure act and so here they are simply striking 65-6318 and inserting 65-6320 to update;
- 7) The same is true on the next act, which are the masters level of psychologist statutes again adding two sections, one of which is in the sub so the language needed to be spread out a little. Then adding the two sections in 74-5374 and also 5375 which is in the sub so it needs to be set out. This is done in every place in this broad powers of duty section of the board of behavioral sciences to update the parameters;
- 8) This is true on page 5, all of those references to the various sections are updated by the same language as they are all identical. At the bottom of the page, the language referring to the administrative fine and cost of the hearing is being deleted;
- 10) On page 6, at the top of the page, it is spelled out in a little more detail, giving them a little more basis for what this language says, so the this adds two new subsections setting out what is being struck on the preceding two pages and inserts some additional language;
- 11) Sub (b), sets out that litany of language relating to the acts that the Board administers and states that the fine not exceed \$1,000 and slightly gives a little more direction to the Board in that it says it has to be done "after notice and an opportunity to be heard" for the licensee;
- 12) Sub ©), consists of the Board's hearing process, expanding language regarding costs in civil actions, additional costs, and if the Board is the unsuccessful party, the costs will be paid out of the state treasury and witness fees and costs may be taxed according to statutes in the district courts. In comparison to other statutes on the Board is it would limit the amount that the adversely found licensee or register would have to pay the \$200, other health care provider type acts do not have limitations;
- 13) On page 7, the language is once again expanded for clarification and to be more precise, by inserting language on line 9 and lines 16 and 17, picks out these adjusted references to update the statute references;
- 14) On page 8, the language introduced talked about the option to censure the practitioner, so again, to be more precise, language has been added ("licensee or registrant in lieu of other disciplinary action.")

Questions for Mr. Furse came from Ms. Correll including: why not include someone who might be violating their registration and could someone be unlawfully using the title?

As there were no further questions, a motion was made by Senator Journey to amend the balloon. It was seconded by Senator Salmans and the motion passed. A motion was made by Senator Brungardt to pass favorably as amended. It was seconded by Senator Jordan and the motion passed.

Action on SB426 - institutional licenses under the Kansas Healing Arts Act

The next order of business was SB426 - an act concerning institutional licenses under the Kansas Healing Arts Act. The Chair asked Mr. Furse for his comments on the amendment requested by SRS regarding page 2, line 39 through 42 which would add language to the current law regarding persons who were

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issued the license but would request to have the license reinstated. He stated, this is where SRS proposed adding "in addition, nothing would prohibit the renewal of an existing institutional license originally issued prior to the effective date of the act if the person meets the requirements of sub (d)."

The Chair called upon Ms. Correll, who wondered if there was already a provision for renewal of an institutional license, referring to sub sec. (d), lines 15 through 32, so there would be two different procedures for renewing. The Chair asked for thoughts from Mr. Larry Buening, Executive Director, Kansas Board of Healing Arts, who felt this was not conflicting and not sure if necessary, but stated because there is one individual who has been licensed since 1987 and has been eligible to renew every two years at Parsons, but does not have postgraduate training in the United States, but did have in Viet Nam, SRS wanted to expand on the bill because of this. The Chair questioned that this makes it more complicated to explain. Senator Salmans offered that this would clarify (possibility of interpretation), especially at a later date if people change positions.

The Chair asked for the will of the Committee. A motion was made by Senator Salmans and seconded by Senator Brungardt to work the bill and pass favorable as unamended and to contact SRS to review the entire paragraph (d) before the bill goes on the floor so they can amend if necessary.

Adjournment

As there was no further business, the meeting was adjourned. The time was 2:36 p.m.

The next meeting is scheduled for Monday, February 23, 2004.

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SENATE BILL No. 366

By Committee on Public Health and Welfare

1-26

AN ACT concerning the cancer registry; relating to the definition of health care provider and parties required to report to the registry; amending K.S.A. 65-1,168 and 65-1,169 and repealing the existing sections.

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

Section 1. K.S.A. 65-1,168 is hereby amended to read as follows: 65-1,168. As used in this act:

(a) "Confidential data" means any data which permits the identification of individuals.

(b) "Health care provider" means a person licensed to practice medicine and surgery, physician, a hospital or ambulatory surgery center, as defined in K.S.A. 65-425 and amendments thereto, a radiology oncology center, a person licensed to practice dentistry, as defined in K.S.A. 65-1422 and amendments thereto, any individual providing health care services, or a pathology laboratory.

(c) "Secretary" means the secretary of the department of health and environment.

Sec. 2. K.S.A. 65-1,169 is hereby amended to read as follows: 65-1,169. (a) The secretary is hereby authorized to collect data pertaining to all cancers occurring in Kansas into a registry which shall be the cancer registry for the state of Kansas. The secretary shall adopt rules and regulations which use the most efficient, least intrusive means for collecting cancer data consistent with ensuring the quality, timeliness, completeness and confidentiality of the cancer registry. The rules and regulations shall specify ~~who shall report~~ the data elements to be reported, timeliness of reporting and format for collecting and transmitting data to the registry.

(b) ~~Reporting by persons licensed to practice medicine or surgery and other individuals providing health care services shall be limited to responding to requests for information regarding persons with cancer previously identified by other means.~~ Health care providers, as defined in K.S.A. 65-1,168 and amendments thereto, and other individuals and entities specified in rules and regulations shall report to the registry each case diagnosed or treated unless exempted by statute or regulation within six months of the date of diagnosis.

Amendments requested by Senate Committee on Public Health and Welfare during February 5, 2003, hearing on bill.
Drafted February 5, 2003.

_____ person licensed to practice medicine and surgery

_____ who shall report,

Senate Public Health & Welfare Committee
Attachment 1
Date: February 17, 2004

1-2

1 Sec. 3. K.S.A. 65-1,168 and 65-1,169 are hereby repealed.
2 Sec. 4. This act shall take effect and be in force from and after its
3 publication in the statute book.

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SENATE BILL No. 443

By Committee on Public Health and Welfare

2-4

AN ACT concerning the behavioral science regulatory board; relating to disciplinary authority, amending K.S.A. 65-5809, 65-6311, 74-5324, 74-5369, 74-7507 and 74-7508 and repealing the existing sections; also repealing K.S.A. 65-6318, 74-5335 and 74-5343.

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

Section 1. K.S.A. 65-5809 is hereby amended to read as follows: 65-5809. The board may refuse to issue, suspend, limit, refuse to renew, condition or revoke any license granted under the professional counselors licensure act for any of the following reasons:

(a) Use of drugs or alcohol, or both, to an extent that impairs the individual's ability to engage in the practice of professional counseling;

(b) the individual has been convicted of a felony and, after investigation, the board finds that the individual has not been sufficiently rehabilitated to merit the public trust;

(c) use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of the professional counselors licensure act or in obtaining permission to take any examination given or required pursuant to the provisions of the professional counselors licensure act;

(d) obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(e) incompetence, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a professional counselor or clinical professional counselor;

(f) violation of, or assisting or enabling any individual to violate, any provision of the professional counselors licensure act or any rule and regulation adopted under such act;

(g) impersonation of any individual holding a license or allowing any individual to use a license or diploma from any school of a person licensed under the professional counselors licensure act or a diploma from any school of an applicant for licensure under the professional counselors licensure act;

(h) revocation or suspension of a license or other authorization to practice counseling granted by another state, territory, federal agency or

[material within brackets would be deleted]

Senate Public Health & Welfare Committee
Attachment 2
Note: February 17, 2001

P.P.

1 county upon grounds for which revocation or suspension is authorized
2 by the professional counselors licensure act:

3 (i) the individual is mentally ill or physically disabled to an extent that
4 impairs the individual's ability to engage in the practice of professional
5 counseling;

6 (j) assisting or enabling any person to hold oneself out to the public
7 or offer to hold oneself out to the public as a licensed professional coun-
8 selor or a licensed clinical professional counselor who is not licensed un-
9 der the provisions of the professional counselors licensure act;

10 (k) the issuance of the license was based upon a material mistake of
11 fact;

12 (l) violation of any professional trust or confidence;

13 (m) use of any advertisement or solicitation which is false, misleading
14 or deceptive to the general public or persons to whom the advertisement
15 or solicitation is primarily directed;

16 (n) unprofessional conduct as defined by rules and regulations
17 adopted by the board; or

18 (o) the licensee has had a registration, license or certificate as a pro-
19 fessional counselor revoked, suspended or limited, or has had other dis-
20 ciplinary action taken, or an application for a registration, license or cer-
21 tificate denied, by the proper regulatory authority of another state,
22 territory, District of Columbia, or other country, a certified copy of the
23 record of the action of the other jurisdiction being conclusive evidence
24 thereof.

25 Sec. 2. K.S.A. 65-6311 is hereby amended to read as follows: 65-
26 6311. (a) The board may suspend, limit, revoke, *condition* or refuse to
27 issue or renew a license of any social worker upon proof that the social
28 worker:

29 (1) Has been convicted of a felony and, after investigation, the board
30 finds that the licensee has not been sufficiently rehabilitated to merit the
31 public trust;

32 (2) has been found guilty of fraud or deceit in connection with ser-
33 vices rendered as a social worker or in establishing needed qualifications
34 under this act;

35 (3) has knowingly aided or abetted a person, not a licensed social
36 worker, in representing such person as a licensed social worker in this
37 state;

38 (4) has been found guilty of unprofessional conduct as defined by
39 rules established by the board;

40 (5) has been found to have engaged in diagnosis as authorized under
41 K.S.A. 65-6319 and amendments thereto, even though not authorized to
42 engage in such diagnosis under K.S.A. 65-6319 and amendments thereto;

43 (6) has been found guilty of negligence or wrongful actions in the

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1 performance of duties; or
 2 (7) has had a license to practice social work revoked, suspended or
 3 limited, or has had other disciplinary action taken, or an application for
 4 a license denied, by the proper licensing authority of another state, ter-
 5 ritory, District of Columbia, or other country, a certified copy of the
 6 record of the action of the other jurisdiction being conclusive evidence
 7 thereof.

8 (b) Proceedings to consider the suspension, revocation or refusal to
 9 renew a license shall be conducted in accordance with the provisions of
 10 the Kansas administrative procedure act.

11 Sec. 3. K.S.A. 74-5324 is hereby amended to read as follows: 74-
 12 5324 The board may suspend, limit, revoke, *condition* or refuse to issue
 13 or renew a license of any psychologist upon proof that the psychologist:
 14 (a) Has been convicted of a felony involving moral turpitude; or (b) has
 15 been guilty of fraud or deceit in connection with services rendered as a
 16 psychologist or in establishing qualifications under this act; or (c) has
 17 aided or abetted a person, not a licensed psychologist, in representing
 18 such person as a psychologist in this state; or (d) has been guilty of un-
 19 professional conduct as defined by rules and regulations established by
 20 the board; or (e) has been guilty of negligence or wrongful actions in the
 21 performance of duties; or (f) has knowingly submitted a misleading, des-
 22 ceptive, untrue or fraudulent misrepresentation on a claim form, bill or
 23 statement or (g) has had a registration, license or certificate as a psy-
 24 chologist revoked, suspended or limited, or has had other disciplinary
 25 action taken, or an application for registration, license or certificate de-
 26 nied, by the proper regulatory authority of another state, territory, District
 27 of Columbia or another country, a certified copy of the record of the
 28 action of the other jurisdiction being conclusive evidence thereof.

29 Sec. 4. K.S.A. 74-5369 is hereby amended to read as follows: 74-
 30 5369 An application for licensure under K.S.A. 74-5361 to 74-5371, in-
 31 clusive, and amendments thereto, may be denied or a license granted
 32 under this act may be suspended, limited, revoked ~~or~~ *placed on it* ^{with a condition}
 33 *placed on it* or not renewed by the board upon proof that the applicant
 34 or licensee:

- 35 (a) Has been convicted of a felony involving moral turpitude;
- 36 (b) has been found guilty of fraud or deceit in connection with the
- 37 rendering of professional services or in establishing such person's quali-
- 38 fications under this act;
- 39 (c) has aided or abetted a person not licensed as a psychologist, li-
- 40 censed under this act or an uncertified assistant, to hold one-self out as a
- 41 psychologist in this state;
- 42 (d) has been guilty of unprofessional conduct as defined by rules and
- 43 regulations of the board.

32 under this act may be suspended, limited, revoked ~~or~~ *placed on it* ^{with a condition}
 33 *placed on it* or not renewed by the board upon proof that the applicant

1 (c) has been guilty of neglect or wrongful duties in the performance
2 of duties, or

3 (d) has had a registration, license or certificate as a masters level psy-
4 chologist revoked, suspended or limited, or has had other disciplinary
5 action taken, or an application for a registration, license or certificate
6 denied, by the proper regulatory authority of another state, territory, Dis-
7 trict of Columbia or another country, a certified copy of the record of the
8 action of the other jurisdiction being conclusive evidence thereof.

9 Administrative proceedings under K.S.A. 74-5361 to 74-5371, inclu-
10 sive, and amendments thereto shall be conducted in accordance with the
11 Kansas administrative procedure act. Judicial review and civil enforce-
12 ment of agency actions under K.S.A. 74-5361 to 74-5371, inclusive, and
13 amendments thereto shall be in accordance with the act for judicial review
14 and civil enforcement of agency actions.

15 Sec. 5. K.S.A. 74-7507 is hereby amended to read as follows: 74-
16 7507. The behavioral sciences regulatory board shall have the following
17 powers, duties and functions:

(a)
Redesignate (a) to (l) as items (1) to (12), respectively

18 (a) Recommend to the appropriate district or county attorneys prose-
19 cution for violations of this act, the licensure of psychologists act of the
20 state of Kansas, the professional counselors licensure act, K.S.A. 65-6301
21 to ~~65-6318~~ inclusive, and amendments thereto, K.S.A. 74-5361 to ~~74-~~
22 ~~5372~~ inclusive, and amendments thereto, the marriage and family ther-
23 apists licensure act or the alcohol and other drug abuse counselor regis-
24 tration act.

65-6320
74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375

25 (b) compile and publish annually a list of the names and addresses of
26 all persons who are licensed under this act, are licensed under the licen-
27 sure of psychologists act of the state of Kansas, are licensed under the
28 professional counselors licensure act, are licensed under K.S.A. 65-6301
29 to ~~65-6318~~ inclusive, and amendments thereto, are licensed under K.S.A.
30 74-5361 to ~~74-5372~~ inclusive, and amendments thereto, are licensed under
31 the marriage and family therapists licensure act or are registered
32 under the alcohol and other drug abuse counselor registration act;

65-6320
74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375

33 (c) prescribe the form and contents of examinations required under
34 this act, the licensure of psychologists act of the state of Kansas, the
35 professional counselors licensure act, K.S.A. 65-6301 to ~~65-6318~~ inclu-
36 sive, and amendments thereto, K.S.A. 74-5361 to ~~74-5372~~ inclusive, and
37 amendments thereto, the marriage and family therapists licensure act or
38 the alcohol and other drug abuse counselor registration act;

65-6320
74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375

39 (d) enter into contracts necessary to administer this act, the licensure
40 of psychologists act of the state of Kansas, the professional counselors
41 licensure act, K.S.A. 65-6301 to ~~65-6318~~ inclusive, and amendments
42 thereto, K.S.A. 74-5361 to ~~74-5372~~ inclusive, and amendments thereto,
43 the marriage and family therapists licensure act or the alcohol and other

65-6320
74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375

1 drug abuse counselor registration act,
 2 (e) adopt an official seal,
 3 (f) adopt and enforce rules and regulations for professional conduct
 4 of persons licensed under the licensure of psychologists act of the state
 5 of Kansas, licensed under the professional counselors licensure act, li-
 6 censed under K.S.A. 65-6301 to ~~65-6318~~ inclusive, and amendments
 7 thereto, licensed under K.S.A. 74-5361 to ~~74-5372~~ inclusive, and amend-
 8 ments thereto, licensed under the marriage and family therapists licen-
 9 sure act or registered under the alcohol and other drug abuse counselor
 10 registration act.

65-6320
 74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375

11 (g) adopt and enforce rules and regulations establishing requirements
 12 for the continuing education of persons licensed under the licensure of
 13 psychologists act of the state of Kansas, licensed under the professional
 14 counselors licensure act, licensed under K.S.A. 65-6301 to ~~65-6318~~ in-
 15 clusive, and amendments thereto, licensed under K.S.A. 74-5361 to ~~74-~~
 16 ~~5372~~ inclusive, and amendments thereto, licensed under the marriage
 17 and family therapists licensure act or registered under the alcohol and
 18 other drug abuse counselor registration act;

65-6320
 74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375

19 (h) adopt rules and regulations establishing classes of social work spe-
 20 cialties which will be recognized for licensure under K.S.A. 65-6301 to
 21 65-6318, inclusive, and amendments thereto;

22 (i) adopt rules and regulations establishing procedures for examina-
 23 tion of candidates for licensure under the licensure of psychologists act
 24 of the state of Kansas, for licensure under the professional counselors
 25 licensure act, for licensure under K.S.A. 65-6301 to ~~65-6318~~ inclusive,
 26 and amendments thereto, for licensure under K.S.A. 74-5361 to ~~74-5372~~,
 27 inclusive, and amendments thereto, for licensure under the marriage and
 28 family therapists licensure act, for registration under the alcohol and other
 29 drug abuse counselor registration act and for issuance of such certificates
 30 and such licenses;

65-6320
 74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375

31 (j) adopt rules and regulations as may be necessary for the adminis-
 32 tration of this act, the licensure of psychologists act of the state of Kansas,
 33 the professional counselors licensure act, K.S.A. 65-6301 to ~~65-6318~~ in-
 34 clusive, and amendments thereto, K.S.A. 74-5361 to ~~74-5372~~, inclusive,
 35 and amendments thereto, the marriage and family therapists licensure act
 36 and the alcohol and other drug abuse counselor registration act and to
 37 carry out the purposes thereof;

65-6320
 74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375

38 (k) assess administrative fines in an amount not to exceed \$1,000 per
 39 violation.

40 (l) if an order is adverse to the practitioner of the behavioral sciences,
 41 the costs shall be charged to such as in ordinary civil actions in the district
 42 court in an amount not to exceed \$200, but if the board is the unsuccessful
 43 party, the costs shall be paid out of any money in the state treasury to

1 [The credit of the board. Witness fees and costs may be taxed according to
 2 the statutes prevailing in the district courts.]

3 (m) appoint an executive director and other employees as provided
 4 in K.S.A. 74-7501 and amendments thereto; and

5 (n) exercise such other powers and perform such other functions
 6 and duties as may be prescribed by law.

7 Sec. 6. K.S.A. 74-7508 is hereby amended to read as follows: 74-

8 7508. (a) In connection with any investigation, based upon a written com-
 9 plaint or other reasonably reliable written information, by the behavioral
 10 sciences regulatory board, the board or its duly authorized agents or em-
 11 ployees shall at all reasonable times have access to, for the purpose of
 12 examination, and the right to copy any document, report, record or other
 13 physical evidence of any person being investigated, or any document,
 14 report, record or other evidence maintained by and in possession of any
 15 clinic or office of a practitioner of the behavioral sciences, or other public
 16 or private agency if such document, report, record or other physical ev-
 17 idence relates to practices which may be grounds for disciplinary action.

18 (b) In all matters pending before the behavioral sciences regulatory
 19 board, the board shall have the power to administer oaths and take tes-
 20 timony. For the purpose of all investigations and proceedings conducted
 21 by the behavioral sciences regulatory board:

22 (1) The board may issue subpoenas compelling the attendance and
 23 testimony of witnesses or the production for examination or copying of
 24 documents, reports, records or any other physical evidence if such docu-
 25 ments, reports, records or other physical evidence relates to practices
 26 which may be grounds for disciplinary action. Within five days after the
 27 service of the subpoena on any person requiring the production of any
 28 documents, reports, records or other physical evidence in the person's
 29 possession or under the person's control, such person may petition the
 30 board to revoke, limit or modify the subpoena. The board shall revoke,
 31 limit or modify such subpoena if in its opinion the documents, reports,
 32 records or other physical evidence required does not relate to practices
 33 which may be grounds for disciplinary action, is not relevant to the alle-
 34 gation which is the subject matter of the proceeding or investigation, or
 35 does not describe with sufficient particularity the documents, reports,
 36 records or other physical evidence which is required to be produced. Any
 37 member of the board, or any agent designated by the board, may admin-
 38 ister oaths or affirmations, examine witnesses and receive such docu-
 39 ments, reports, records or other physical evidence.

40 (2) The district court, upon application by the board or by the person
 41 subpoenaed, shall have jurisdiction to issue an order:

42 (A) Requiring such person to appear before the board or the board's
 43 duly authorized agent to produce documents, reports, records or other

(b) The behavioral sciences regulatory board, in addition to any other penalty, may assess an administrative penalty, after notice and an opportunity to be heard, against a licensee or registrant for a violation of any of the provisions of the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375, and amendments thereto, the marriage and family therapists licensure act or the alcohol and other drug abuse counselor registration act in an amount not to exceed \$1,000. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215 and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(c) If an order of the behavioral sciences regulatory board is adverse to a licensee or registrant of the board, the costs shall be charged to such person as in ordinary civil actions in the district court in an amount not to exceed \$200. The board shall pay any additional costs and, if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed in accordance with statutes governing taxation of witness fees and costs in the district court.

L.P.

1 physical evidence relating to the matter under investigation or
2 (B) revoking, limiting or modifying the subpoena if in the court's
3 opinion the evidence demanded does not relate to practices which may
4 be grounds for disciplinary action, is not relevant to the allegation which
5 is the subject matter of the hearing or investigation or does not describe
6 with sufficient particularity the documents, reports, records or other
7 physical evidence which is required to be produced.

8 (3) (A) *If the board determines that an individual has practiced the*
9 *behavioral sciences without a valid license, in addition to any other pen-*
10 *alties imposed by law, the board, in accordance with the Kansas admin-*
11 *istrative procedure act, may issue a cease and desist order against such*
12 *individual.*

a profession regulated by the board for which the practitioners of the profession
are required by law to be licensed in order to practice the profession

13 (B) *Whenever in the judgment of the behavioral sciences regulatory*
14 *board any person has engaged, or is about to engage, in any acts or*
15 *practices which constitute, or will constitute, a violation of K.S.A. 65-6301*
16 *to 65-6320, inclusive, and amendments thereto, 74-5361 to 74-5375, in-*
17 *clusive, and amendments thereto, the licensure of psychologists act, the*
18 *marriage and family therapists licensure act or the alcohol and other drug*
19 *abuse counselor registration act, or any valid rule or regulation of the*
20 *board, the board may make application to any court of competent juris-*
21 *isdiction for an order enjoining such acts or practices, and upon a showing*
22 *by the board that such person has engaged, or is about to engage in any*
23 *such acts or practices, an injunction, restraining order, or such other*
24 *order as may be appropriate shall be granted by such court without bond.*

74-5374
and K.S.A. 2003 Supp. 74-5375,

25 (c) Any complaint or report, record or other information relating to
26 a complaint which is received, obtained or maintained by the behavioral
27 sciences regulatory board shall be confidential and shall not be disclosed
28 by the board or its employees in a manner which identifies or enables
29 identification of the person who is the subject or source of the information
30 except the information may be disclosed

31 (1) In any proceeding conducted by the board under the law or in an
32 appeal of an order of the board entered in a proceeding, or to any party
33 to a proceeding or appeal or the party's attorney:

34 (2) to the person who is the subject of the information or to any
35 person or entity when requested by the person who is the subject of the
36 information, but the board may require disclosure in such a manner that
37 will prevent identification of any other person who is the subject or source
38 of the information, or

39 (3) to a state or federal licensing, regulatory or enforcement agency
40 with jurisdiction over the subject of the information or to an agency with
41 jurisdiction over acts or conduct similar to acts or conduct which would
42 constitute grounds for action under this act. Any confidential complaint
43 or report, record or other information disclosed by the board as author-

1 ized by this section shall not be redisclosed by the receiving agency except
2 as otherwise authorized by law.

3 (d) Nothing in this section or any other provision of law making com-
4 munications between a practitioner of one of the behavioral sciences and
5 the practitioner's client or patient a privileged or confidential communi-
6 cation shall apply to investigations or proceedings conducted pursuant to
7 this section. The behavioral sciences regulatory board and its employees,
8 agents and representatives shall keep in confidence the content and the
9 names of any clients or patients whose records are reviewed during the
10 course of investigations and proceedings pursuant to this section.

11 (e) *In all matters pending before the behavioral sciences regulatory*
12 *board, the board shall have the power to revoke the license or registration*
13 *of any licensee or registrant who voluntarily surrenders such person's*
14 *license or registration pending investigation of misconduct or while*
15 *charges of misconduct against the licensee are pending or anticipated.*

16 (f) *In all matters pending before the behavioral sciences regulatory*
17 *board, the board shall have the option to censure the [practitioner of the*
18 *behavioral sciences holding the license]*

licensee or registrant in lieu of other disciplinary action

19 Sec. 7. K.S.A. 65-5809, 65-6311, 65-6318, 74-5324, 74-5335, 74-
20 5369, 74-5343, 74-7507 and 74-7508 are hereby repealed.

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

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