

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 1:30 p.m. on March 16, 2004 in Room 231-N of the Capitol.

All members were present except:
Senator Chris Steineger- absent

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

Conferees appearing before the committee:
Ms. Chris Collins, Director of Government Affairs, Kansas Medical Society
Ms. Kelli Benintendi, Associate Council, Kansas Board of Healing Arts
Mr. Larry Buening, Executive Director, Kansas Board of Healing Arts

Others attending:
Please See Attached List.

Hearing on HB2813 - an act concerning health care records; relating to the abandonment thereof;

Upon calling the meeting to order, the Chair announced there would be two hearings, the first on HB2813 an act concerning health care records; relating to the abandonment thereof and asked Mr. Furse to review the bill. His highlights included:

- 1) Introduced in the House by the Committee on Judiciary and relates to health care records and abandonment of those records;
- 2) This is a new section which defines health care providers for terms of this act as basically a person licensed to practice medicine and surgery or chiropractic or as a podiatrist and then it talks about corporations, other entities practicing these professions;
- 3) In those situations where the health care provider has abandoned his/her practice or has had a license revoked or suspended, or otherwise can practice or who has died and basically abandoned the records involved, this would allow the Board of Healing Arts upon gaining knowledge that the records had been abandoned, to petition the district court for an order appointing a record's custodian,
- 4) The records custodians' language can be found on page 2, sub sec. (e), line 11, and he or she would basically take over the records and handle them under lines 26 thru 29 the custodian would not be liable for civil action for damages or other relief as long as the custodian did not maliciously alter or destroy the health care records;
- 5) The administrator of the health care provider's estate could petition the court to amend, modify, or dissolve the order concerning the custodian of health care records;
- 6) Nothing in the act would prevent a health care provider or their authorized representative from gaining access and copying a record created by the health care provider; and,
- 7) The verbiage in this bill is unsmooth.

Mr. Furse stood before the Committee for questions. Ms. Correl asked;

- 1) For clarification in sub sec.(b) as it reads now the health care would have to have one of these things listed in (b) happen and refuse or be unable to provide access to the record, and,
- 2) The definition of health care providers is limited to persons licensed to practice the three branches of healing arts, etc. do we have like types of statutes in other types of provider acts?

The Chair then called upon the first of two proponents, Ms. Chris Collins, Director of Government Affairs, Kansas Medical Society, who stated in rare situations where a licensee has abandoned their practice, died intestate, without anyone to manage the estate and without anyone to manage their affairs,

CONTINUATION SHEET

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE at 1:30 p.m. on March 16, 2004 in Room 231-N of the Capitol.

Page 2

the Board is apparently forced to petition the district court to transfer possession of the records to another party. She stated judges have no explicit statutory authority to do so and must rely on common law equitable remedies, and the subsequent custodian of the records is: left with apparent authority over the physical records, a plethora of complicated statutory obligations relating to those records, and a rather significant tort exposure for failure to comply with those obligations. A copy of her testimony is (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

The second proponent was Ms. Kelli Benintendi, Associate Council to the Kansas Board of Healing Arts, who stated that the common law establishes that patient records are the property of the entity that creates the records, but does not provide an adequate procedure for accessing records that have been abandoned. She also stated the bill not only addresses the patients' interest, but:

- 1) Takes into account the due process rights of the practitioner who owns the records;
- 2) The appointment of records' custodian occurs as part of a judicial proceeding and when the owner is ready to resume the duties of ownership, the order of appointment is terminated;
- 3) Protects the person who is appointed as records custodian and is:
 - A) Not responsible for the content of the records;
 - B) Given immunity except in cases where the custodian acts maliciously;
 - C) Authorized to collect statutory fees from patients for copying.

A copy of her testimony is (Attachment 2) attached hereto and incorporated into the Minutes as referenced.

As there were no opponents, neutral, or written testimonies, the Chair asked for questions from the Committee. Questions came from Senators Journey and Salmans and Ms. Correll and Mr. Furse including: wondering what the cost of storage could end up being in five or ten years, as there was no fiscal note available; is there a provision or would there be notice to the patients as to where their records are going to be located; what property interest is contemplated in the bill by the owner (do their file cabinets go with them, refer to page 2, beginning on line 8); how would you interpret the nature of fiduciary duties (refers to line 12 on page 2); who actually owns the records; who owns the protocol (ex. lab results, testing) and what happens to labs if they are abandoned; clarification - ordinarily the records would be the property of the estate and the estate makes the provisions for access to the practice and could this not also be done as a part of settling the estate; regarding the fiscal note, it appears there would be some fiscal effects on the Board of Healing Arts, you file a petition are you contemplating that you would not do anything more before the court, you just give them this petition and you disappear or are you going to be involved in the hearing process; would there be some investigation the Board would have to do (ex. Make a presentation)?

As there were no more questions, the Chair closed the hearing.

Hearing on HB2820 - an act concerning the state board of healing arts; relating to actions taken for unprofessional conduct; expiration of licenses and registrations; creation of designations for certain licenses

The Chair then announced the hearing on HB 2820, an act concerning the State Board of Healing Arts; relating to actions taken for unprofessional conduct; expiration of licenses and registrations; creation of designations for certain licenses, and again called on Mr. Furse to give a brief overview of the bill. His highlights of this bill included:

- 1) Introduced by the House Committee on Health and Human Services;
- 2) Sec. 1 relates to the podiatry law, licensed podiatrists, referring to the bottom of page 1, the

CONTINUATION SHEET

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE at 1:30 p.m. on
March 16, 2004 in Room 231-N of the Capitol.

Page 3

change occurs where the license is cancelled for nonpayment of renewal fees, the terminology here talks about cancellation by operation of law on license and this throughout the law in various different formats;

3) On page 2, language in the middle of the page makes parallel the temporary permit language to other provisions that the Board of Healing Arts licenses;

4) Would note in line 24, the word "permittee" should be "temporary licensee" since we are changing this designated permit to a license;

5) Sub (f) at the bottom of page 2, would provide for the issuance of a postgraduate permit to practice podiatry and sets out standards for that permit;

6) On page 3, in line 30 and following lines, provides for designation of inactive license which is similar to other designations of inactive licensees of the Board of Healing Arts;

7) On page 4, in line 17 in sub sec. (j) creates a designation of federally active license and this is for an individual who practices podiatry solely in the course of employment or active duty in the U.S. government or any of those departments, bureaus, or agencies, or, who in addition to such employment or assignment provides professional services as a charitable health care provider as defined in the tort claims act;

8) At the bottom of page 4, provides for a person's license being revoked (they may apply for reinstatement after the expiration of three years upon showing clear and convincing evidence that they have rehabilitated or whatever would be appropriate);

9) On page 5, still in the podiatry law, the following fees are inactive and this section needs to be amended to pick up these new designations of inactive license and federally active license;

10) On page 6, Sec. 3 commences the statute on physician assistants (PAs), eliminating the registry language of the PA act (so all of the strike type would be elimination of current law relating to maintaining the registry of the names of physician assistants keeping other information that the Board of Healing Arts is required to do; it would insert, at the bottom of page 6 and top of page 7, that as a condition for engaging in active practice, a physician assistant must file a request to engage in active practice, signed by the PA and the physician who will be responsible for the PA. The Board is to maintain a list of names of physician assistants who may engage in the active practice in the state; subsequent language relates to physician assistants mailing addresses, reinstatement, etc.;

11) At the bottom of page 7 the language creates a designation of inactive license for the physician assistant similar to the other inactive licenses of the Board;

12) Top of page 8, sub (f) creates a designation of federally active license for physician assistants similar to the podiatrist federally active license although there is no mention of charitable health care.

13) Then it sets out the fees and again the fee section in (g) picks up the designation of federally active license and inactive license and also conversion from one license category to another;

14) On page 9, Sec. 4 commences sections on physical therapists (PTs), another occupational group, credentialed by the Board of Healing Arts; change on page 10, line five sub (e) increase the designation of inactive license for physical therapists;

15) Sec. 5 relates to occupational therapists (OTs) and it provides that the license may be publicly or privately censured, revoked or limited, making disciplinary action language uniform throughout the Board of Healing Arts;

16) On page 11, in the OT Act, the civil fine language similar to other civil fines that the Board of Healing Arts may impose is set up for the OTs;

17) Sec. 6 continues the OT Act and provides for the expiration on dates published by rules and regs of the Board would allow them to phase in their expirations throughout the year;

18) Sub (b) talks about notifying the licensee when their license is to expire;

19) Sub ©) if their license is cancelled for failure to renew and may be reinstated under the conditions set out in sub ©);

20) at the top of page 12, Sec. 7, is a respiratory therapy section, and again makes uniform the language relating to suspension, adds or mimics the public or privately censured license, and adds a civil fine for violations of the act, which is similar to the other language that the Board of Healing Arts administers;

21) Sec. 8 on top of page 13, a physical therapist section, talking about the expiration of the date established by rules and regs which would allow the Board to review their license on a standard basis if

CONTINUATION SHEET

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE at 1:30 p.m. on March 16, 2004 in Room 231-N of the Capitol.

Page 4

they so desire; notifying the license of the expiration of their license and license cancelled for various reasons in sub ©);

22) Sec. 9 at the bottom of page 13, is the section on doctors of naturopathic physicians and again inserts the language relating to limiting the license or public or privately censured if the licensee has a disciplinary action;

23) It inserts the civil fine language on page 14, line 26 and subsequent lines;

24) On line 40 it would allow again, licenses to expire throughout the year established by rules and regs of the Board;

25) Page 15, the Board would notify the register of the expiration of the license similar to the other language and this language relate to reinstatement of a license in sub sec.©) on page 15; and,

26) The bill itself would become effective on publication in the statute book which would be July.

He feels overall, with some other items thrown in, is an attempt to make uniform the various provisions that the Board of Healing Arts makes throughout its various licensing acts.

The Chair then called upon the only person to testify before the Committee, Mr. Larry Buening, Executive Director, Board of Healing Arts who stated while the bill is sizeable due to the length of the statutes that are being amended, the amendments proposed in this bill are primarily technical in nature and are intended to make the statutes for these various professions more similar and more easily administered by the Board. He then offered an explanation of each section of the bill. Mr. Buening also offered two attachments setting forth further amendments that the Board asks be considered for inclusion in the bill. The first is a further amendment to Section 2 and adds a statutory fee minimum for a postgraduate permit. The second, requests the inclusion of two new sections of the bill dealing with mandatory professional liability insurance for physical therapists and naturopathic doctors. A copy of his testimony and attachments are (Attachment 3) attached hereto and incorporated into the Minutes as referenced.

As there was no opponent, neutral, or written testimony was offered, the Chair asked the Committee for questions or comments. Senator Haley asked regarding podiatrist fees, when there was such an increase or when this was put into the statute (Referring to Sec. 2 concerning statutory fee maximums). Also, in Sec. C, the 5, 10, or \$15,000 violation for the penalties, is this a new proposal, has this been done elsewhere, or it is being done for consistency?

As there was no further discussion, the Chair closed the hearing.

Action on HB2698 - an act providing for the regulation and licensing of radiologic technologists and x-ray operators, establishing a registry of e-ray operators; granting powers and duties of the state board of healing arts, establishing a radiologic technology council and providing for the functions thereof; declaring unlawful acts and penalties.

The Chair said that when they had the hearing on this bill, they had some technical cleanup that was needed and the Board of Healing Arts had a concern about having to keep a registry, and we had already been approached with a delicate compromise, and now we are being approached with another compromise. She then asked Mr. Furse to hand out a balloon and asked him to explain and noted that all groups that care about these issues have all agreed to this balloon. Highlights of Mr. Furse's explanation included:

1) Change dates to make it clear when the various sections become effective, the subsidy sections would become effective 7-1-05, the bill itself would be published in the statute book effective 7-1-04; the sections that would become effective in 2004 are the two sections relating to creating an advisory council, its powers and duties, and the powers and duties of the Board to start getting set up to

CONTINUATION SHEET

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE at 1:30 p.m. on March 16, 2004 in Room 231-N of the Capitol.

Page 5

administer carrying out the provisions of this act; the other substantive sections would become effective on July 1, 2005;

2) In accordance with the intent of the sponsors of the bill, note on page 2, line 21, there is some language current in the bill relating to July 1, 2005;

3) The other changes in here are numerous but are all changes that either the Board of Healing Arts or the radiologists suggested; the primary policy one being the elimination of the registry language on page 5, lines 15 through 43 and inserting of Sec. 7 in its place, eliminating the negative registry setup for x-ray operators and they would be inserted as one of the areas of exclusion in the bill;

4) On page 3, line three, it says, the following shall be exempt from the provisions of this act and the requirements of a license pursuant to this act; then go down to sub (f) where it says, any licensed PA or an unlicensed person performing radiography services who is: 1) working under the supervision of a licensed practitioner or a person designated by a hospital licensed pursuant to the hospital licensure act and 2) who has been trained on the proper use of radiographic equipment for the purpose of performing radiography consistent with 65-2001 et seq. (it's deleted as a register and inserted as an exclusion); and,

5) The second item is the advisory council where it is created, it was noted that the council was made to serve at the pleasure of its appointing authority and yet in sub (b) it was to service for terms, which makes this inconsistent; it has been suggested by the Board of Healing Arts, beginning on page 6, lines 14 and 15 would delete the members appointed by the Governor shall serve at the pleasure of the Governor, and in this case, the Board and the Governor appoint members; and so this language would suggest that the members appointed by the Governor would be appointed for terms as provided in the balloon, lines 17 through 20 and it would leave members appointed by the Board serving at the pleasure of the Board.

A copy of the balloon is (Attachment 4) attached hereto and incorporated into the Minutes as referenced.

The Chair then asked the Committee if there were questions about the balloon. Senator Barnett stated that during original testimony he noted on page 8, beginning on line 39, there was concern about disciplinary actions, was this addressed? Mr. Furse referred to page 7, on lines 32 through 36, a person whose license had been suspended language, he had suggested to the Committee that this would be more appropriately placed over on page 8 where we talk about licensure actions.

As there were no further questions on the balloon, Senator Barnett made a motion to adopt the balloon as outlined by Mr. Furse and advance the bill favorably, seconded by Senator Brungardt. The motion carried.

Adjournment

As it was going on 2:30 p.m., the Chair thanked the Committee, letting them know they were on schedule and adjourned the meeting. The time was 2:30 p.m.

The next meeting is scheduled for Wednesday, March 17, 2004.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

DATE: Tuesday, March 16, 2004

NAME	REPRESENTING
LARRY BUENING	BOHA
Kelli Benintendi	BOHA
Christina Collins	KMS
Ron Heia	Heia Law Firm, Ltd
MAURNE PROBUASCO	K P M A
Larry McMillivary	SLS
Mary Hildebrandt	Conlee Consulting Group
Michelle Peterson	Kansas Governmental Consulting
Mark Stafford	BOHA
Asha Friesen	Sen. Salmans
Bryce Friesen	Sen. Salmans
Doug Viers	sen Salmans
R. Alan Smutzger	Sen Swann Hodgson Co.
Leonard Mostrom	sen Salmans
Lester Shuck	sen Salmans
Pat Moore	
Melanie Manare	

Min
att.



623 SW 10th Avenue
Topeka KS 66612-1627
785.235.2383
800.332.0156
fax 785.235.5114

kmsonline.org

TO: Senate Public Health and Welfare Committee

FROM: Christina Collins
Director of Government Affairs

DATE: March 16, 2004

RE: HB 2813, Abandoned Health Care Records

Chairman Wagle and Members of the Committee:

Thank you for the opportunity to comment on HB 2813. The bill represents a needed change in the law governing the disposition of medical records in the event the responsible health care provider cannot be located or is otherwise unable to manage the oversight of health care records.

Mark Stafford, counsel to the Board of Healing Arts, has relayed several, albeit infrequent, instances to us where a licensee has abandoned their practice, has died intestate and without anyone to manage the estate or has become otherwise incapacitated and without anyone to manage their affairs. In the meantime, patients are left without access to necessary health care records. In these rare situations, the Board of Healing Arts apparently is forced to petition the district court to transfer possession of the records to another party. Judges have no explicit statutory authority to do so and must rely on common law equitable remedies. The subsequent custodian of the records is left with apparent authority over the physical records, a plethora of complicated statutory obligations relating to those records, and rather significant tort exposure for failure to comply with those obligations. The Kansas Medical Society supports the concept articulated in HB 2813 of creating a statutory right of action and granting the subsequent records custodian all of those rights and protections that should accompany the responsibility of maintaining health care records.

The Board of Healing Arts has been responsive in addressing our concerns and accommodated our requests for amendments to ensure that this new measure cannot be used to improperly deprive a licensee of his records. Therefore we support this bill that fills a current void in Kansas law in those rare instances where a licensee is no longer able to manage a patient's health care records. I am pleased to stand for questions.

*Senate Public Health & Welfare Committee
Attachment 1
Date: March 16, 2004*

KANSAS BOARD OF HEALING ARTS

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR



KATHLEEN SEBELIUS, GOVERNOR

March 16, 2004

The Honorable Susan Wagle
Chair, Senate Committee on Public
Health and Welfare
Room 128-S
Statehouse

Re: House Bill No. 2813

Dear Senator Wagle:

Thank you for the opportunity to appear before the Public Health and Welfare Committee on behalf of the Board of Healing Arts. The Board supports House Bill 2813 as providing a procedure for the appointment of a records' custodian in those instances where patient records have been abandoned.

The common law establishes that patient records are the property of the entity that creates the records. But patients have a legal interest in the information contained in the record, and to that the Legislature appropriately furthered patients' statutory right to obtain a copy of their records in 2002 by the adoption of K.S.A. 65-4970, *et seq.* Additionally, regulations adopted under the healing arts act require practitioners to forward patient records to another practitioner when requested by the patient so that the patient's care can be continued.

The law presently does not provide an adequate procedure for accessing records that have been abandoned. We have experienced instances in which physicians have had their licenses revoked, where they have died unexpectedly, and where they have simply walked away from their practices. In these instances, patients have been left without access to their records. These patients contact the Board for information on regarding the location of their records because they want those records forwarded to new health care providers. We have only been able to assist these patients in rare instances. As a result, patient records are lost, destroyed, damaged, and sometimes inappropriately disclosed.

House Bill 2813 protects the public health, safety and welfare. In those instances where the licensee is unable or unwilling to continue the duty to maintain the records confidentially, and to disclose them to the patient or to other health care providers upon the patient's request, a records custodian would be appointed to take physical custody of the records, and to act for the health care provider, at least on a temporary basis.

MEMBERS OF THE BOARD

JOHN P. GRAVINO, D.O., PRESIDENT
Lawrence

RAY N. CONLEY, D.C., VICE-PRESIDENT
Overland Park

VINTON K. ARNETT, D.C., Hays
GARY L. COUNSELMAN, D.C., Topeka
FRANK K. GALBRAITH, D.P.M., Wichita
MERLE J. "BOO" HODGES, M.D., Salina
SUE ICE, PUBLIC MEMBER, Newton
JANA JONES, M.D., Leavenworth

BETTY McBRIDE, PUBLIC MEMBER, Columbus
MARK A. McCUNE, M.D., Overland Park
CAROL H. SADER, PUBLIC MEMBER, Shawnee Mission
CHARLOTTE L. SEAGO, M.D., Liberal
CAROLINA M. SORIA, D.O., Wichita
ROGER D. WARREN, M.D., Hanover
JOHN P. WHITE, D.O., Pittsburg

235 S. Topeka Boulevard, Topeka, Kansas 66603-3068
Voice 785-296-7413 Fax 785-296-0852 www.ksbha.org

Senate Public Health & Welfare Committee
Attachment 2
Date: March 16, 2004

The bill not only addresses the patients' interest, but it takes into account the due process rights of the practitioner who owns the records. The appointment of a records' custodian occurs as part of a judicial proceeding. When the owner of the records is ready to resume the duties of ownership, the order of appointment is terminated. Finally, the bill protects the person who is appointed as records custodian. That person is not responsible for the content of the records, and is given immunity except in cases where the custodian acts maliciously. The custodian is authorized to collect statutory fees from patients for copying.

The House Judiciary Committee made minor amendments to the bill. Those amendments were agreed upon to address concerns that had been expressed by the Kansas Medical Society.

The Board urges the committee to consider House Bill 2813 favorably.

Very truly yours,



Kelli J. Benintendi
Associate Counsel

KANSAS BOARD OF HEALING ARTS

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR



KATHLEEN SEBELIUS, GOVERNOR

MEMO

TO: Senate Committee on Public Health and Welfare

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

DATE: March 16, 2004

RE: HOUSE BILL NO. 2820

Thank you for the opportunity to provide testimony in support of House Bill No. 2820. This bill was introduced at the request of the Board and amends 10 statutes administered by the Board relating to six of the health care professions the Board regulates. While the bill is sizeable due to the length of the statutes that are being amended, the amendments proposed by this bill are primarily technical in nature and are intended to make the statutes for these various professions more similar and more easily administered by the Board.

Section 1 amends K.S.A. 65-2005 which is part of the Podiatry Act. Podiatrists are the only doctors licensed by the Board that are regulated under statutes that are not part of the Healing Arts Act. Since its enactment in 1957, the Healing Arts Act has only applied to medical doctors, osteopathic doctors and chiropractors. By Executive Reorganization Order No. 8 issued by the Governor on February 10, 1975, the State Podiatry Board of Examiners was abolished and the powers, duties and functions transferred to the Board. Legislation for the licensure and regulation of podiatrists has been separate from the Healing Arts Act and is located at K.S.A. 65-2001 *et seq.* The language inserted at page 1, line 42 is identical to that in the Healing Arts Act at K.S.A. 65-2809(c) and allows the Board to cancel a podiatrist's license for non-renewal if the licensee has failed to meet the renewal requirements after receiving two notices. Currently, the Kansas Administrative Procedure Act requires notice and an opportunity for hearing after already mailing two notices.

Section 1 further amends K.S.A. 65-2005 on page 2 by authorizing the issuance of a postgraduate permit. K.S.A. 65-2003(a) has required postgraduate training as a condition of licensure since July 1, 1988. The current language makes no differentiation between a temporary permit issued to those who have met all the requirements for licensure and are simply awaiting final Board action from those who obtain a temporary permit to engage in an approved postgraduate training program in Kansas.

*Senate Public Health & Welfare Committee
Attachment 3
Date: March 16, 2004*

MEMBERS OF THE BOARD

JOHN P. GRAVINO, D.O., PRESIDENT
Lawrence

RAY N. CONLEY, D.C., VICE-PRESIDENT
Overland Park

VINTON K. ARNETT, D.C., Hays
GARY L. COUNSELMAN, D.C., Topeka
FRANK K. GALBRAITH, D.P.M., Wichita
MERLE J. "BOO" HODGES, M.D., Salina
SUE ICE, PUBLIC MEMBER, Newton
JANA JONES, M.D., Leavenworth

BETTY McBRIDE, PUBLIC MEMBER, Columbus
MARK A. McCUNE, M.D., Overland Park
CAROL H. SADER, PUBLIC MEMBER, Shawnee Mission
CHARLOTTE L. SEAGO, M.D., Liberal
CAROLINA M. SORIA, D.O., Wichita
ROGER D. WARREN, M.D., Hanover
JOHN P. WHITE, D.O., Pittsburg

New Subsections (i) and (j) create the designations of inactive license and federally active license for those individuals who are not engaged in the active practice of podiatry in Kansas and who are employed by the United States government. The language in these two subsections is almost identical to those license designations created for healing arts licensees under K.S.A. 65-2809(g) and (h). An individual holding an inactive license designation will not be allowed to engage in any practice in Kansas and will not be required to maintain professional liability insurance or obtain continuing education. Persons with a federally active license designation must meet all the requirements imposed upon those with a license to actively practice, with the exception of professional liability insurance, since their coverage is provided by the Federal Tort Claims Act.

New Subsection (l) sets forth the process for reinstatement of a revoked license with language almost identical to that in located in the Healing Arts Act at K.S.A. 65-2844.

Section 2 of the bill amends K.S.A. 65-2012 relating to the statutory maximums of fees that can be established by the Board. This subsection makes provision for the newly-created license designations of inactive and federally active and establishes the statutory maximums of fees for podiatrists identical with that in the Healing Arts Act at K.S.A. 65-2852.

Section 3 of the bill substantially amends K.S.A. 65-28a03 relating to physician assistants. The current language which is stricken on page 6 requires creates separate grounds for removal from the registry of those physician assistants who may engage in "private" practice from the grounds for revoking a license set forth in K.S.A. 65-28a05. The new language beginning at page 6, line 43 simplifies the process by which a physician assistant may engage in active practice. Changes made on page 7, lines 17, 24-28, 31 and 35 make the renewal process similar to that for other professions regulated by the Board. New Subsections (e) and (f) create inactive and federally active license designations. Current language does not provide for any difference in license designations for those who may actively engage in practice and those who do not currently practice and do not have a responsible physician. Further, there are those individuals employed by the Federal government that do not have a person licensed by the Board as their responsible physician. Finally, subsection (g) provides statutory maximums for the newly-created license designations and for conversion of these designations to a license that entitles the physician assistant to engage in practice in Kansas.

Section 4 creates an inactive license designation for physical therapists who may not be currently practicing and, therefore, are not maintaining professional liability insurance as required by K.S.A. 2003 Supp. 65-2920. This statute requires that a policy of professional liability insurance be maintained by each physical therapist "actively practicing in this state".

Section 5 of the bill relates to occupational therapists and occupational therapy assistants. Amendments are made to K.S.A. 65-5410 to expand the disciplinary sanctions that can be imposed for unprofessional conduct. The ability to assess a fine for unprofessional conduct is also added.

Section 6 amends K.S.A. 65-5412. These changes relate to the expiration of licenses and the process for renewal and make such similar to other professions regulated by the Board. Since the Board began the registration of occupational therapists and occupational therapy assistants in 1986, the expiration date has been established by rule and regulation to be the same for all holders of an OT or OTA credential. However, when the Board attempted to amend the rule and regulation due to the change in credentialing status made by the 2002 Legislature, we were advised that the current language of K.S.A. 65-5412 required that each license, when issued, be for a period of one year. This would result in all licenses expiring at different times throughout the year.

Section 7 amends K.S.A. 65-5510 relating to respiratory therapists. Like the amendments to K.S.A. 65-5410 in Section 5, these amendments expand the disciplinary sanctions that can be imposed for unprofessional conduct and allow the Board to assess a civil fine.

Section 8 amends K.S.A. 65-5512 and deals with the expiration of licenses for respiratory therapists in the same manner as Section 6 deals with occupational therapists and occupational therapy assistants.

Similarly, Section 9 expands the disciplinary sanctions that can be imposed on naturopathic doctors for unprofessional conduct and authorizes the imposition of a civil fine.

Section 10 amends K.S.A. 65-7209 relating to naturopathic doctors and makes the expiration date and renewal process similar for this process as Sections 6 and 8 do for occupational therapy and respiratory therapy.

Attached to this testimony are two attachments setting forth further amendments that the Board asks be also be considered for inclusion in H.B. No. 2820. The first attachment is a further amendment to Section 2 and adds a statutory fee maximum for a postgraduate permit. When the amendment was made to K.S.A. 65-2005 to allow the issuance of a postgraduate permit, (page 2, lines 29-39), we mistakenly omitted adding a statutory maximum for this new type of credential. Therefore, this would add a new subsection (p) to K.S.A. 65-2012 on page 6 of the bill.

The second attachment requests the inclusion of two new sections to the bill. These sections deal with mandatory professional liability insurance for physical therapists and naturopathic doctors. New Section 11 amends K.S.A. 2003 Supp. 65-2920 which will go into effect April 1, 2004. Since this statute was enacted during the last legislative session, we have learned that some physical therapists have liability coverage, but not necessarily through a policy of insurance approved by the Commissioner of Insurance or by a company authorized to do business in Kansas. Similarly New Section 12 deals with a similar issue for naturopathic doctors. In the case of this profession, the Commissioner of Insurance has approved no policy for liability insurance for naturopathic doctors.

I apologize for the length of this testimony. The changes being requested by House Bill No. 2820, although not substantive in nature, will greatly assist the Board in its administration of the laws relating to these six professions and we ask the Committee take action to consider this bill favorably for passage by the Senate as a whole.

; and
 (p) for a postgraduate permit, an amount of not more than \$60.

HB 2820

6

1 (n) for conversion of an exempt or inactive license to a license to
 2 practice podiatry, an amount of not more than \$300; ~~and~~
 3 (o) for reinstatement of a revoked license, an amount of not more than
 4 \$1,000-

5 Sec. 3. K.S.A. 65-28a03 is hereby amended to read as follows: 65-
 6 28a03. (a) ~~The state board of healing arts shall maintain a registry of the~~
 7 ~~names of physician assistants who may engage in active practice. No per-~~
 8 ~~son's name shall be entered on the registry of physician assistants unless~~
 9 ~~such person has:~~

10 ~~—(1) Presented to the state board of healing arts proof of current~~
 11 ~~licensure;~~

12 ~~—(2) presented to the board a request signed by the applicant's pro-~~
 13 ~~posed responsible physician on a form provided by the board which shall~~
 14 ~~contain such information as required by rules and regulations adopted by~~
 15 ~~the board.~~

16 ~~—(b) A person's name may be removed from the registry of physician~~
 17 ~~assistants who may engage in private practice if:~~

18 ~~—(1) The person whose name is entered on the registry as a licensed~~
 19 ~~physician assistant requests or consents to the removal thereof;~~

20 ~~—(2) the state board of healing arts determines that the person whose~~
 21 ~~name is entered on the registry as a licensed physician assistant has not~~
 22 ~~been employed as a physician assistant or as a teacher or instructor of~~
 23 ~~persons being educated and trained to become a physician assistant in a~~
 24 ~~course of education and training approved by the state board of healing~~
 25 ~~arts under this act and amendments thereto at sometime during the five~~
 26 ~~years immediately preceding the date of such determination.~~

27 ~~—(3) the board determines, after notice and opportunity to be heard,~~
 28 ~~in accordance with the provisions of the Kansas administrative procedure~~
 29 ~~act, that a physician assistant has violated any provision of this act and~~
 30 ~~amendments thereto, or any rules and regulations adopted pursuant~~
 31 ~~thereto; or~~

32 ~~—(4) the board determines, after notice and opportunity to be heard,~~
 33 ~~in accordance with the provisions of the Kansas administrative procedure~~
 34 ~~act, that the request by the proposed responsible physician pursuant to~~
 35 ~~this act and amendments thereto should not be approved.~~

36 ~~—(c) The state board of healing arts may remove a person's name from~~
 37 ~~the registry as a licensed physician assistant or may refuse to place a~~
 38 ~~person's name on the registry as a licensed physician assistant if the board~~
 39 ~~determines, after notice and opportunity for hearing in accordance with~~
 40 ~~the provisions of the Kansas administrative procedure act, that a physician~~
 41 ~~assistant has exceeded or has acted outside the scope of authority given~~
 42 ~~the physician assistant by the responsible physician or by this act. As a~~
 43 ~~condition of engaging in active practice as a physician assistant, each~~

ATTACHMENT 2

New Section 11. K.S.A. 2003 Supp. 65-2920 is hereby amended to read as follows: 65-2920. ~~A policy of Professional liability insurance approved by the commissioner of insurance and issued by an insurer duly authorized to transact business in this state~~ coverage shall be maintained in effect by each licensed physical therapist actively practicing in this state as a condition to rendering professional services as a physical therapist in this state. The ~~state board of healing arts~~ shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.

New Section 12. K.S.A. 65-7217 is hereby amended to read as follows: 65-7217. ~~(a) A policy of Professional liability insurance approved by the commissioner of insurance and issued by an insurer duly authorized to transact business in this state~~ coverage shall be maintained in effect by each naturopathic doctor as a condition to rendering professional service as a naturopathic doctor in this state. The board shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.

~~(b) The provisions of this section shall take effect on and after January 1, 2003.~~

Substitute for HOUSE BILL No. 2698

By Committee on Health and Human Services

2-23

[material within brackets would be deleted]

Senate Public Health and Welfare Committee
Attachment 4
Date: March 16, 2004

9 AN ACT providing for the regulation and licensing of radiologic tech-
10 nologists and x-ray operators; establishing a registry of x-ray operators;
11 granting powers and duties of the state board of healing arts; estab-
12 lishing a radiologic technology council and providing for the functions
13 thereof; declaring unlawful acts and penalties.

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

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

18 Sec. 2. As used in this act:

- 19 (a) "Board" means the state board of healing arts.
- 20 (b) "Ionizing radiation" means x-rays, gamma rays, alpha and beta
21 particles, high speed electrons, protons, neutrons and other nuclear par-
22 ticles capable of producing ions directly or indirectly in its passage
23 through matter.
- 24 (c) "License" means a certificate issued by the board authorizing the
25 licensee to perform radiologic technology procedures on humans for di-
26 agnostic or therapeutic purposes.
- 27 (d) "Licensed practitioner" means a person licensed to practice medi-
28 cine and surgery, dentistry, podiatry or chiropractic in this state.
- 29 (e) "Licensure" and "licensing" mean a method of regulation by
30 which the state grants permission to persons who meet predetermined
31 qualifications to engage in a health related occupation or profession.
- 32 (f) [X-ray operator] means a person who is not able to meet minimum
33 requirements for a license as a radiologic technologist pursuant to this
34 act and who is providing limited radiography under the supervision of a
35 licensed practitioner, a person designated by a hospital licensed pursuant
36 to K.S.A. 65-425 et seq., and amendments thereto, or a licensee under
37 this act and whose name is entered on the registry created herein pur-
38 suant to this act.

39 (g) "Nuclear medicine technologist" means a person who uses radio
40 pharmaceutical agents on humans for diagnostic or therapeutic purposes. (g)

41 (h) "Nuclear medicine technology" means the use of radio nuclides
42 on human beings for diagnostic or therapeutic purposes. (h)

43 (i) "Radiation therapist" means a person who applies radiation to hu-

1 means for therapeutic purposes.

2 ~~[(j)] "Radiation therapy" means the use of any radiation procedure or~~ (j)
3 ~~article intended for the cure, mitigation or prevention of disease in~~
4 ~~humans.~~

5 ~~[(k)] "Radiographer" means a person who applies radiation to humans~~ (j)
6 ~~for diagnostic purposes.~~

7 ~~[(l)] "Radiography" means the use of ionizing radiation on human be-~~ (k)
8 ~~ings for diagnostic purposes.~~

9 ~~[(m)] "Radiologic technologist" means any person who is a radiogra-~~ (l)
10 ~~pher, radiation therapist or nuclear medicine technologist.~~

11 ~~[(n)] "Radiologic technology" means the use of radioactive substance~~ (m)
12 ~~or equipment emitting or detecting ionizing radiation on humans for di-~~
13 ~~agnostic or therapeutic purposes upon prescription of a licensed practi-~~
14 ~~tioner. The term includes the practice of radiography, nuclear medicine~~
15 ~~technology and radiation therapy, but does not include echocardiography,~~
16 ~~diagnostic sonography and magnetic resonance imaging.~~

17 ~~[(o)] "Supervisor" means a licensed practitioner or an employee des-~~
18 ~~ignated by a hospital licensed pursuant to K.S.A. 65-425 et seq., and~~
19 ~~amendments thereto, providing supervision for a registered x-ray operator~~
20 ~~pursuant to this act.~~

(n) This section shall take effect on and after July 1, 2005.

21 Sec. 3. (a) On and after July 1, 2005, except as otherwise provided
22 in this act, no person shall perform radiologic technology procedures on
23 humans for diagnostic or therapeutic purposes unless the person pos-
24 sesses a valid license issued under this act.

25 (b) A person holding a license under this act shall use radioactive
26 substances or equipment for radiologic technology procedures on humans
27 only for diagnostic or therapeutic purposes by prescription of a licensed
28 practitioner.

29 (c) No person shall depict one's self orally or in writing, expressly or
30 by implication, as holder of a license who does not hold a current license
31 under this act.

32 (d) (1) Only persons licensed under this act as a radiologic technol-
33 ogist shall be entitled to use the title "radiologic technologist", abbrevi-
34 ations thereof, or words similar thereto or use the designated letters
35 "R.T." or "R.T. (R)".

36 (2) Only persons licensed under this act as a radiologic technologist
37 and who have received additional certification from the American registry
38 of radiologic technologists (ARRT) or the nuclear medicine technology
39 certification board (NMTCB) shall be entitled to use the title "radiation
40 therapist" or "nuclear medicine technologist", abbreviations thereof, or
41 words similar thereto or use the designated letters "R.T. (N)" or "R.T.
42 (T)".

43 (3) This section shall not prohibit a person who is licensed as a res-

piratory therapist by this state from using any letter or designation indicating that such person is engaged in the practice of respiratory therapy.

(e) This section shall take effect on and after July 1, 2005.

Sec. 4. The following shall be exempt from the provisions of this act and the requirement of a license pursuant to this act:

- (a) A licensed practitioner;
- (b) a resident physician or a student enrolled in an educational program approved by the board while under the direct supervision of a licensed practitioner, a person designated by a hospital licensed pursuant to K.S.A. 65-425 et seq., and amendments thereto, or a licensed radiologic technologist;

a person issued a postgraduate permit by the board or students while in actual attendance in an accredited health care educational program for radiography and under the supervision of a qualified instructor

(c) health care providers in the United States armed forces, public health services, federal facilities and other military service when acting in the line of duty in this state;

(d) persons rendering assistance in the case of an emergency;

(e) 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; and

or an unlicensed person performing radiography services who is (1)

(f) a licensed physician assistant or a licensed nurse working under the supervision of a licensed practitioner who has been trained on the proper use of radiographic equipment for the purpose of performing radiography consistent with K.S.A. 65-2001, et seq., or K.S.A. 65-2801, et seq., and amendments thereto. The board may adopt such rules and regulations as are necessary to assure that persons exempted from licensure under this subsection receive continuing education consistent with their practice authorized herein.

or a person designated by a hospital licensed pursuant to K.S.A. 65-425 et seq., and amendments thereto, and (2)

(g) This section shall take effect on and after July 1, 2005.

Sec. 5. An applicant for licensure as a radiologic technologist shall file an application, on forms provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements:

- (1) At the time of the application is at least 18 years of age;
 - (2) has successfully completed a four-year course of study in a secondary school approved by the state board of education, passed an approved equivalency test or graduated from a secondary school outside Kansas having comparable approval by the state board of education;
 - (3) has satisfactorily completed a course of study in radiography which is approved by the board and which contains a curriculum no less stringent than the standards of existing organizations which approve radiologic technology programs;
 - (4) except as provided in section 6, and amendments thereto, has successfully passed a license examination approved by the board; and
 - (5) has paid all fees required for licensure prescribed in this act.
- (h) The board may issue a temporary license to an applicant seeking

1 licensure as a radiologic technologist when such applicant meets the
 2 requirements for licensure or meets all the requirements for licensure
 3 except examination and pays to the board the temporary license fee as
 4 required under section 12, and amendments thereto. Such temporary
 5 license shall expire 180 days from the date of issue or on the date that
 6 the board approves the application for licensure, whichever occurs first.
 7 No more than one such temporary license shall be permitted to any one
 8 person.

9 (c) The board may accept, in lieu of its own licensure examination, a
 10 current certificate by the American registry of radiologic technologists,
 11 nuclear medicine technologist certification board or other recognized national
 12 voluntary credentialing bodies, which the board finds was issued
 13 on the basis of an examination which meets standards at least as stringent
 14 as those established by the board.

or

15 (d) The board may waive the examination, ~~education~~ ~~or experience~~
 16 requirements and grant licensure to any applicant who presents proof of
 17 current licensure as a radiologic technologist in another state, the District
 18 of Columbia or territory of the United States which requires standards
 19 for licensure determined by the board to be equivalent to the require-
 20 ments under this act.

21 (e) A person whose license has been revoked may make written ap-
 22 plication to the board requesting reinstatement of the license in a manner
 23 prescribed by the board, which application shall be accompanied by the
 24 fee provided for in section ~~12~~ and amendments thereto.

11

25 (f) At least 30 days before the expiration of a license issued under
 26 this act, the board shall notify the licensee of the expiration date by mail
 27 addressed to the licensee's last mailing address as noted upon office
 28 records.

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

(f) This section shall take effect on and after July 1, 2005.

31 Sec. 6. The board shall waive the education and examination require-
 32 ments for an applicant who, on or before July 1, 2005:

33 (a) (1) Has been engaged in the practice of radiologic technology for
 34 a period of at least two years of the three years immediately preceding
 35 July 1, 2005;

36 (2) is 18 years of age or older; and

37 (3) has successfully completed secondary schooling or its equivalency;

38 or

39 (b) (1) has been engaged in the practice of radiologic technology prior
 40 to July 1, 2005;

41 (2) has, at the time of application, a current valid certificate by the
 42 American registry of radiologic technologists, nuclear medicine technol-
 43 ogist certification board or other recognized national voluntary creden-

1 tiding bodies, which the board finds was issued on the basis of an ex-
2 amination which meets standards at least as stringent as those established
3 by the board;

4 (3) is 18 years of age or older; and
5 (4) has successfully completed secondary schooling or its equivalency;

6 or

7 (c) (1) has engaged in the practice of radiologic technology prior to
8 July 1, 2005;

9 (2) submits an affidavit from two of the following: A hospital admin-
10 istrator, a radiologist, or a licensed practitioner other than a radiologist
11 attesting to the applicant's competency in the practice of radiologic
12 technology;

13 (3) is 18 years of age or older; and
14 (4) has successfully completed secondary schooling or its equivalency;

(c) This section shall take effect on and after July 1, 2005.

15 ~~Sec. 7. (a) The board shall maintain a registry of the names of per-
16 sons who do not meet the requirements of this act for licensure as a
17 radiologic technologist but who practice limited diagnostic radiography
18 as an x-ray operator under the supervision of a licensed practitioner or of
19 a person designated by a hospital licensed pursuant to K.S.A. 65-425 *et*
20 *seq.*, and amendments thereto. It shall be unlawful for any person to
21 function as an x-ray operator unless such person is licensed as a radiologic
22 technologist under this act or unless such person's name has been entered
23 on the registry of x-ray operators.~~

24 ~~(b) The board may adopt rules and regulations establishing the reg-
25 istry created herein and may provide for continuing education require-
26 ments consistent with the performance of limited diagnostic radiography
27 by x-ray operators.~~

28 ~~(c) No person's name shall be entered on the registry of x-ray oper-
29 ators unless such person has presented to the board an application signed
30 by such person's supervising licensed practitioner or by such person des-
31 ignated by a hospital licensed pursuant to K.S.A. 65-425 *et seq.*, and
32 amendments thereto, on a form provided by the board which shall contain
33 such information as required by rules and regulations adopted by the
34 board. Every x-ray operator, within 30 days of obtaining new employment,
35 shall furnish the board notice of the name and address of the new
36 supervisor.~~

37 ~~(d) A person whose name appears on the registry shall not hold
38 themselves out as and shall not be entitled to use the titles listed in section
39 3, and amendments thereto, or abbreviations thereof, or words similar
40 thereto.~~

41 ~~(e) A person whose name appears on the registry shall be subject to
42 sanctions by the board for violations of section 12, and amendments
43 thereto.~~

1 Sec. 8. (a) There is established the radiologic technology council to
 2 assist the state board of healing arts in carrying out the provisions of this
 3 act. The council shall consist of five members, all citizens and residents
 4 of the state of Kansas appointed as follows: The board shall appoint one
 5 member who is a physician licensed to practice medicine and surgery
 6 who is also certified as a radiologist and one member who is a member
 7 of the state board of healing arts. Members appointed by the board shall
 8 serve at the pleasure of the board. The governor shall appoint three radiologic
 9 technologists who have at least three years' experience in radiologic
 10 technology preceding the appointment and are actively engaged, in
 11 this state, in the practice of radiologic technology or the teaching of radiologic
 12 technology. At least two of the governor's appointments shall be
 13 made from a list of four nominees submitted by the Kansas society of
 14 radiologic technologists. [Members appointed by the governor shall serve
 15 at the pleasure of the governor.]

16 (b) [The terms of office of the initial council members shall be as
 17 follows: Two shall be appointed for a term of two years, one for a term
 18 of three years, and [two] for a term of four years, with successor members
 19 appointed for four years and to serve until a successor member is ap-
 20 pointed. If a vacancy occurs on the council, the appointing authority of
 21 the position which has become vacant shall appoint a person of like qual-
 22 ifications to fill the vacant position for the unexpired term.

23 (c) Radiologic technologists initially appointed to the council must be
 24 eligible for licensure under section 5, and amendments thereto. On and
 25 after July 1, 2005, new appointees shall be licensed under the provisions
 26 of this act.

27 (d) The council shall meet at least once each year at a time and place
 28 of its choosing and at such other times as may be necessary on the chair-
 29 person's call or on the request of a majority of the [board's] members.

30 (e) A majority of the council constitutes a quorum. No action may be
 31 taken by the council except by affirmative vote of the majority of the
 32 members present and voting.

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

37 Sec. 9. The radiologic technology council shall advise the board
 38 regarding:

- 39 (a) Examination, licensing and other fees;
- 40 (b) rules and regulations to be adopted to carry out the provisions of
 41 this act;
- 42 (c) subject areas to be covered during the educational program and
 43 on the licensure examination;

Sec. 7. (a) Licenses issued under this act shall expire on the date of
 expiration established by rules and regulations of the board unless renewed in
 the manner prescribed by the board. The request for renewal shall be
 accompanied by the license renewal fee established pursuant to section 12 and
 amendments thereto.

(b) At least 30 days before the expiration of a licensee's license, the board
 shall notify the licensee of the expiration by mail addressed to the licensee's
 last mailing address as noted upon the office records. If the licensee fails to
 submit an application for renewal on a form provided by the board, or fails to
 pay the renewal fee by the date of expiration, the board shall give a second
 notice to the licensee that the license has expired and the license may be
 renewed only if the application for renewal, the renewal fee, and the late
 renewal fee are received by the board within the thirty-day period following the
 date of expiration and that, if both fees are not received within the thirty-day
 period, the license shall be deemed canceled by operation of law and without
 further proceedings.

(c) The board may require any licensee, as a condition of renewal, to submit
 with the application for renewal evidence of satisfactory completion of a
 program of continuing education required by rules and regulations of the board.

(d) Any license canceled for failure to renew may be reinstated upon
 recommendation of the board. An application for reinstatement shall be on a
 form provided by the board, and shall be accompanied by payment of the
 reinstatement fee and evidence of completion of any applicable continuing
 education requirements. The board may adopt rules and regulations
 establishing appropriate education requirements for reinstatement of a license
 that has been canceled for failure to renew.

(e) This section shall take effect on and after July 1, 2005.

The members appointed by the governor shall be appointed for terms of four
 years except that of the members first appointed, one

one

council's

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

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

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

6 Sec. 10. (a) The board, with the advice and assistance of the radiol-
7 ogic technology council, shall:

8 (1) Pass upon the qualifications of all applicants for examination and
9 licensing; contract for examinations; determine the applicants who suc-
10 cessfully pass the examination; duly license ~~or register~~ such applicants
11 and keep a roster of all individuals licensed ~~or registered~~.

12 (2) adopt rules and regulations as may be necessary to administer the
13 provisions of this act; and prescribe forms which shall be issued in the
14 administration of this act;

15 (3) establish standards for approval of an educational course of study
16 and clinical experience, criteria for continuing education, procedures for
17 the examination of applicants;

18 (4) establish standards of professional conduct; procedure for the dis-
19 cipline of licensees and keep a record of all proceedings;

20 (5) establish the effective period for a license and for its expiration
21 at the end of that time unless renewed in a manner prescribed by the
22 board upon payment of the license renewal fee established under this
23 act. The board may establish additional requirements for license renewal
24 which provide for completing the required number of continuing edu-
25 cation courses and any other evidence of continued competency the board
26 may require. The board may provide for the late renewal of a license
27 upon the payment of a late fee;

28 (6) establish procedures for the registry established pursuant to sec-
29 tion 7, and amendments thereto; and

30 (7) establish procedures for reinstatement of expired and revoked
31 licenses;

32 (b) A person whose license is suspended shall not engage in any con-
33 duct or activity in violation of the order by which the license was sus-
34 pended. If a license revoked on disciplinary ground is reinstated, the
35 licensee, as a condition of reinstatement, shall pay the license renewal fee
36 and any other late fee that may be applicable;

37 Sec. 11. (a) The board shall charge and collect in advance fees for
38 radiologic technologists as established by the board by rules and regula-
39 tions, not to exceed:

40	Application for radiologic technologist examination	\$200
41	Application for license	\$50
42	Temporary licensing fee	\$40
43	License renewal	\$50

(a)
(b)
(c)
and
(d)

1	Late license renewal	\$90
2	License reinstatement fee	\$90
3	Certified copy of license	\$40
4	Verified copy	\$25

Revoked license reinstatement fee \$200

5 (b) If the examination is not administered by the board, the board
 6 may require that fees paid for any examination under the radiologic tech-
 7 nologists practice act be paid directly to the examination service by the
 8 person taking the examination.

(c) This section shall take effect on and after July 1, 2005.

9 Sec. 12 (a) The license of a radiologic technologist may be limited,
 10 suspended or revoked, or the licensee may be censured, reprimanded,
 11 fined pursuant to K.S.A. 65-2863a, and amendments thereto, or otherwise
 12 sanctioned by the board or an application for licensure may be denied if
 13 it is found that the licensee or applicant:

14 (1) Is guilty of fraud or deceit in the procurement or holding of a
 15 license;

16 (2) has been convicted of a felony in a court of competent jurisdiction,
 17 either within or outside of this state, unless the conviction has been re-
 18 versed and the holder of the license discharged or acquitted or if the
 19 holder has been pardoned with full restoration of civil rights in which
 20 case the license shall be restored;

21 (3) is addicted to or has distributed intoxicating liquors or drugs for
 22 other than lawful purposes;

23 (4) is found to be mentally or physically incapacitated to such a degree
 24 that in the opinion of the board continued practice by the licensee would
 25 constitute a danger to the public's health and safety;

26 (5) has aided and abetted a person who is not a licensee under this
 27 act or is not otherwise authorized to perform the duties of a license
 28 holder;

29 (6) has undertaken or engaged in any practice beyond the scope of
 30 duties permitted a licensee;

31 (7) has engaged in the practice of radiologic technology under a false
 32 or assumed name or impersonated another licensee;

33 (8) has been found guilty of unprofessional conduct under criteria
 34 which the board may establish by rules and regulations;

35 (9) has interpreted a diagnostic image for a fee while unlicensed; or

36 (10) is, or has been, found guilty of incompetence or negligence while
 37 performing as a license holder.

to a patient

(c) A person whose license is suspended shall not engage in any conduct or
 activity in violation of the order by which the license was suspended.

(d) This section shall take effect on and after July 1, 2005.

38 (b) The denial, refusal to renew, suspension, limitation or revocation
 39 of a license or other sanction may be ordered by the board after notice
 40 and hearing on the matter in accordance with the provisions of the Kansas
 41 administrative procedure act and shall be reviewable in accordance with
 42 the act for judicial review and civil enforcement of agency actions.

(a)

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

H-9

1 of this act, the board may bring an action in the name of the state in a
2 court of competent jurisdiction for an injunction against such violation
3 without regard as to whether proceedings have been or may be instituted
4 before the board or whether criminal proceedings have been or may be
5 instituted.

(b) This section shall take effect on and after July 1, 2005.

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

(a)

(b) This section shall take effect on and after July 1, 2005.

17 Sec. 15. Any violation of this act shall constitute a class B misde-
18 meanor.

On and after July 1, 2005, any

19 Sec. 16. This act shall take effect and be in force from and after its
20 publication in the statute book.