Approved: February 25, 2005
Date

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman James Barnett at 1:30 P.M. on February 14, 2005 in Room 231-N of the Capitol.

All members were present except:
Susan Wagle- excused

Committee staff present:
Emalene Correll, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Norm Furse, Office of Revisor of Statutes
Whitney Nordstrom, Committee Secretary

Conferees appearing before the committee:
Kent B. Murray, M.D.
James E. Sanders, M.D.
Lawrence T. Buening, Jr., Ex. Director Kansas Board of Healing Arts
Senator Dennis Pyle
Christine Ross-Baze, Director of Child Care Licensing and Registration Program, KDHE

Others attending:
See attached list.

Hearing on SB 183

SB 183– Scope of practice of federally active licensees under the healing arts act

Upon calling the meeting to order, Chairperson Barnett announced there would be a hearing on **SB 183**, an act concerning federally active licenses under the Kansas healing arts act; amending K.S.A. 65-2809 and repealing the existing section. The Chair asked Mr. Norm Furse, Revisor of Statutes, to give a brief overview of the bill.

Presentation "Kansas Trauma Update"

Chairperson Barnett thanked Mr. Furse for his overview and stated that the Committee would return to the hearing of **SB 183** after a presentation by Dr. Paul Harrison, Chair of the Advisory Committee on Trauma. A copy of his presentation is (Attachment 1) attached hereto and incorporated into the Minutes as referenced. Highlights of Dr. Harrison's presentation included:

1) Goals of the Kansas Trauma System
2) What is a Trauma System
3) Kansas Milestones in Trauma
4) Advisory Committee on Trauma
5) Trauma Registry
6) Goals for 2005

The Chair thanked Dr. Harrison for his presentation, then asked the Committee for any questions and/or comments for Dr. Harrison.

Hearing on SB 183

Chairperson Barnett returned to the hearing on **SB 183**, the Chair called upon the first proponent conferee to testify. Kent Murray, M.D., began by thanking the Committee for allowing him to testify before them. Dr. Murray requested that the Committee act favorably on **SB 183** which provides for non-compensated medical activities for physicians with "federal active" licensure. He stated that extending the same limited practice exception currently held by those with an "exempt" license to "federal active" licensees has potential benefit to the citizens of the state and corrects what must certainly have been an oversight in the original legislation.

MINUTES OF THE Senate Public Health and Welfare Committee at 1:30 P.M. on January 14, 2005 in Room 231-N of the Capitol.

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

The Chair thanked Dr. Murray for his testimony and asks the Committee for any question and/or comments. Emalene Correll clarified a statement made by Dr. Murray in his testimony. Mr. Norm Furse recommends a language change.

Chairperson Barnett then calls upon the second proponent conferee to testify, Dr. James Sanders. Dr. Sanders stated that physicians in the "federal active" category pay full license fees to the Board of Healing Arts, maintain the required 150 hours of continuing medical education every three years required for licensure, and have the same requirements for reporting tort claims or adverse privileging actions as do physicians licensed in the "active" category. The limited exception authorized by **SB 183** is to allow for the performance of defined administrative functions and providing medical care of supervision without compensation, including practice as a charitable health care provider. A copy of his testimony is (Attachment 3) attached hereto and incorporated into the Minutes as referenced.

As there were no questions for Dr. Sanders, the Chair called upon the third proponent conferee to testify. Lawrence Buening, Executive Director of the Kansas Board of Healing Arts, stated that **SB 183** expands, in a limited manner, the activities that may be performed by a licensee of the healing arts holding a federally active license. If enacted, **SB183** would allow the performance of administrative functions and services constituting the practice of the healing arts that are provided gratuitously. While performing services for the U.S. government, federally active licensees are covered for professional liability under the Federal Tort Claims Act. A copy of his testimony is (Attachment 4) attached hereto and incorporated into the Minutes as referenced.

As there were no opponent or neutral conferees, Chairperson Barnett closed the hearing on **SB 183**.

Hearing on SB 208

SB 208--Concerning child care facilities and family day care homes; denial or revocation of license

The next order of business was a hearing on **SB 208**, an act concerning children and minor; relating to licensure of a child care facility day care home. The Chair asked Mr. Norm Furse to give a brief overview of the bill.

Chairperson Barnett thanked Mr. Furse for the overview, then asked the Committee for any questions and/or comments.

A range of questions and comments came from Senator Brungardt and Emalene Correll which included stating the bill addresses the operator of the facility, and concerning the permanent revocation of licenses, and if the person's name is on the abuse registry.

As there were no further questions for Mr. Furse, the Chair called upon the first conferee to testify. Senator Pyle, on behalf of his constituent, provided testimony in support of **SB 208**. A copy of his testimony is (Attachment 5) attached hereto and incorporated into the Minutes as referenced.

As there were no questions and/or comments for Senator Pyle, Chairperson Barnett called upon the first opponent to testify. Christine Ross-Baze, Director of Child Care Licensing and Registration Program, KDHE, stated that **SB 208** proposes new legislation affecting child care facilities and family day care homes. Specifically the bill requires the Secretary of Health and Environment to permanently deny, revoke or refuse to renew a certificate of registration or temporary permit for a licensed child care provider if the conditions set forth in the bill are met. A copy of her testimony is (Attachment 6) attached hereto and incorporated into the Minutes as referenced.

As there were no questions and/or comments for Ms. Ross-Baze, the Chair recommended that the conferees and revisors clarify language and come back to the Committee at a later date.

MINUTES OF THE Senate Public Health and Welfare Committee at 1:30 P.M. on January 14, 2005 in Room 231-N of the Capitol.

Final action on SB 91

SB 91– Dental board fees

The next order of business was final action on **SB 91**, an act concerning fees, amending K.S.A. 65-1447 and repealing the existing section. Chairperson Barnett asked for Mr. Norm Furse to give a brief overview of the bill and it's amendments. A copy of the amendment is (Attachment 7) attached hereto and incorporated into the Minutes as referenced.

Senator Haley motioned that registration fees be lowered to $250.00 and biennial registration be lowered to $175.00. Senator Gilstrap seconded the motion. Motion Failed.

Senator V. Schmidt motioned to accept amendments proposed by Mr. Furse. Senator Journey seconded the motion. Motion Failed.

Senator V. Schmidt motioned to pass legislation favorably as amended. Senator Journey seconded the motion. Motion Passed.

Adjournment

As there was no further business, the meeting was adjourned. The time was 2:30 p.m.

The next meeting is scheduled for Tuesday, February 15, 2005.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

DATE: February 14, 2005

NAME	REPRESENTING
Ron Seeber	Fm Law Firm
Don Pyle	
Tom Baker	SRS
Lori Nuebel	SRS
Azure Miller	Damron + Assoc.
Jim Sanders	self
Kent Murray	Self
Larry Williamson	Kansas Dental Board
Mike Steiner	KID
Dick Morrissey	KDHE
LARRY BUENING	BD OF HEALING ARTS
Karla Finnell	KAMC
Camille Hertzel	Washburn University
Michael Donnelly	ARC of KS
Susan Kang	KDHE
Chris Low Bose	KDHE
Josh Poore	KDHE
Chad Austin	KHA
Amy Campbell	KS Mental Health Coalition

Kansas Trauma Update

Paul B. Harrison, MD FACS, Chair
Advisory Committee on Trauma
Kansas Surgical Consultants, Wichita

Goals of the Kansas Trauma System :

- Prevent unnecessary death & disability due to trauma
- Improve delivery of trauma services
- Encourage provider preparation and response to trauma
- Increase public awareness & prevention
- Design an inclusive and comprehensive system

Kansas Trauma Plan 2001

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Kansas Trauma System is expected to:

- Improve outcomes for traumatic injury
- Reduce medical costs through appropriate use of resources

Kansas Trauma Plan 2001

The Vision

- One standard of care for all injured
- Embrace special populations at risk of injury
- Focus prevention strategies on costliest and most common events

It pays to Provide Trauma Care

- The very young- prevents loss of productive years
- The very old- prevents need for custodial care
- The very poor- minimizes need for societal support
- The disabled- minimizes loss of residual function

Trauma in Kansas:

- Leading cause of death & disability
- Motor vehicle crashes and falls account for over half of all injury deaths
- Average of 4 people a day die in Kansas from trauma

What Is A Trauma System? ***Characteristics***

- Regionalized, making efficient use of facilities/resources
- Based on unique requirements of the population
- Emphasizes prevention as part of community health
- Ability to expand to meet the medical needs of the community during disaster

Trauma Systems

- Designed to take advantage of "golden hour"
- Difference between life or death
- Or whether you fully recover
- Maximize resources available

Kansas Trauma Program

- Emphasizes local control and decision making at the regional level
- Coordination of activities
- Data-driven planning and accountability

Kansas Milestones in Trauma:

- 1995: Grant from Kansas Health Foundation
- 1999: Legislation passed – K.S.A. 65-5665 et seq.
- 2000: Advisory Committee on Trauma appointed
- 2001: Kansas Trauma Plan is presented to the legislature
- 2002-03 : Regional Councils formed & a data collection system established

Advisory Committee on Trauma:

- 24 member committee representing both urban & rural areas
- Appointed by the Governor
- Advise KDHE on development & implementation of a trauma system
- Meet 4 times/ year

Advisory Committee on Trauma:

- The First Five Years
  - 2001 Trauma Plan approved
  - Trauma Registry Implemented
  - Regional Trauma Councils Established
  - Supported expanded Trauma Education
  - Supported EMS on data collection system
  - Working on trauma center categorization criteria

Advisory Committee on Trauma: Future Plans

- Approved Implementation Schedule for the next 5 years
  - Trauma Registry data collection
  - Regional Trauma Councils
  - Trauma Center Verification
  - Education & Training
  - Pre-hospital EMS

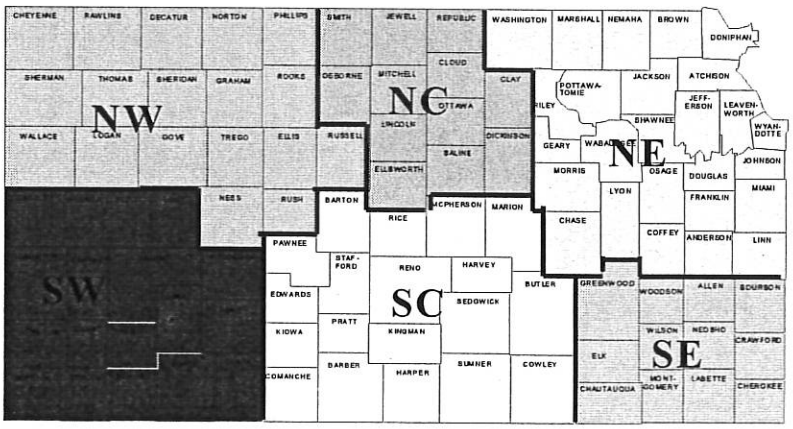
Trauma Registry:

- Data Collection System
- All hospitals in the state have capability & are required to report data
- Capture majority of trauma cases

Trauma Registry: Goals 2005

- Improve the data quality
- Hope to "link" transfer data between EMS and transferring hospitals
- Increase compliance of reporting to 100% of hospitals

Map of Regional Trauma Councils



Regional Trauma Councils:

- Fundamental Questions
  - What are the causes of trauma & how can they be prevented?
  - Is the region's trauma system readily accessible?
  - Is the system efficient & effective?
  - What is needed to improve the system?

Regional Trauma Councils Goals 2005

- Develop regional plans by July 1, 05
- Increase member participation in RTC activities
- Implement EMD training
- Implement injury prevention based on registry data

Hospital Categorization Criteria

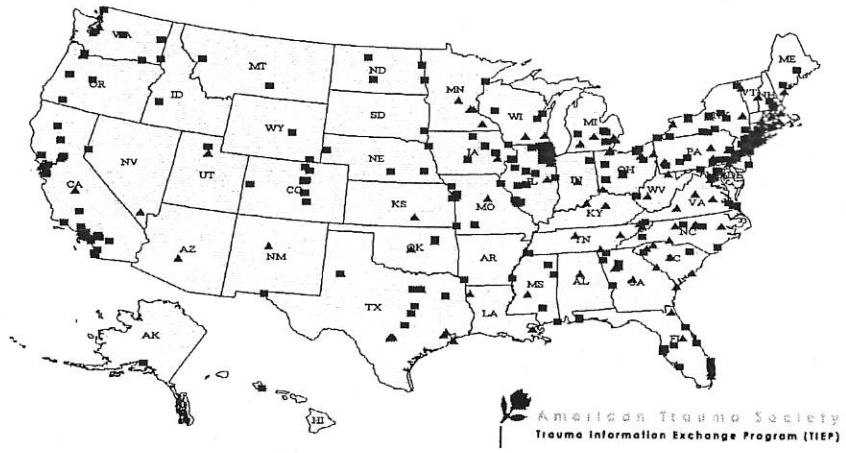
- Hospitals are classified based on level of service they provide
- Kansas has 3 level 1 trauma centers verified by the College of Surgeons
- Two facilities are pursuing level 2 status
- No level 3 or 4 verified facilities: integral part of an inclusive trauma & emergency care system.

Levels of service:

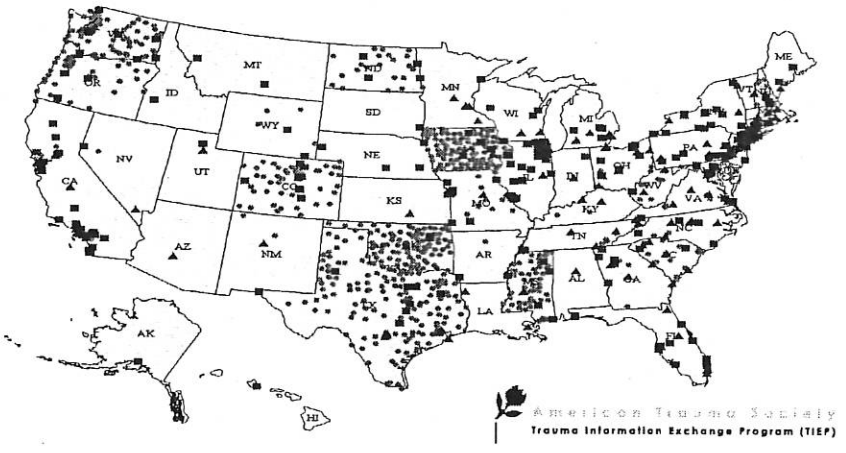
- Level 1: Provide full range of services & has research responsibility
- Level II: Similar level of clinical services and community based
- Level III: General surgery capability
- Level IV: Commonly stabilize the most severely injured

Trauma Centers in the United States –

▲ Level I ■ Level II



Trauma Centers in the United States – All Levels



Trauma Education:

- KDHE/ACT appropriated education funds
- Funding was decreased due budget issues
- Important and hope to support in future

Pre-Hospital EMS:

- Collaborate closely with the Board of EMS
- Support their data collection system
- Coordinate registry data with EMS including developing linkages
- Support pre-hospital education

Trauma Systems:

- Do save lives
- Work to reduce cost of health care through better efficiency
- Returning patients to more productive lives

Thank you for your support

Advisory Committee on Trauma
Committee Members

Name	Organization	City
Dr. Paul Harrison, Chairperson	Kansas Medical Society	Wichita
Dr. Craig Concannon	Kansas Medical Society	Beloit
Dr. Scott Sellers	Kansas Association of Osteopathic Medicine	Hutchinson
Mr. Roger John	Kansas Hospital Association	Phillipsburg
Ms. Leanne M. Irsik	Kansas Hospital Association	Garden City
Dr. Brent Rody	Kansas Hospital Association	Andover
Ms. Darlene Whitlock	Kansas State Nurses Association	Silver Lake
Ms Cathy Heikes	SW Regional Trauma Council Rep.	Dodge City
Ms. Debra Pile	Kansas State Nurses Association	Haysville
Mr. Robert Orth	Kansas Emergency Medical Technician Association	Sublette
Mr. Kerry McCue	Kansas Emergency Medical Services Association	Hays
Mr. Dennis Mauk	EMS Administrator	Wichita
Ms. Pam Kemp	EMS Administrator	Clay Center
Mr. Tim Pitts	SC Regional Trauma Council Rep.	Hutchinson
Mr. Mark Bradford	NE Regional Trauma Council Rep.	Lawrence
Mr. Chris Way	SE Regional Trauma Council Rep.	Parsons
Ms. Kimberla Nutting	NW Regional Trauma Council Rep.	Bogue
Ms. Pat Dowlin	NC Regional Trauma Council Rep.	Beloit
Dr. Dennis Allin, Vice-Chairperson	Board of Emergency Medical Services	Lenexa
Senator Susan Wagle	Chairperson, Public Health & Welfare	Wichita
Senator David Haley	Ranking Minority Member, Public Health and Welfare	Kansas City
Representative Judy Showalter	Ranking Minority Member, Committee on Health and Human Services	Winfield
Representative James Morrison	Chairperson, Committee on Health and Human Services	Colby

F[illegible]our	July 1, 2004 to June 30, 2005
Y[illegible]	Trauma Registry • Develop process for linking data on transfer cases • Implement change in inclusion criteria • Develop and implement protocol for special data requests • Develop in state processes for on-going training and education Regional Trauma Councils • Complete regional trauma plans • Identify resources and needs based on data and needs assessment • Monitor data collection at regional level • Assess resources needed to improve trauma care coverage • ACT to develop & implement approval process for regional plans Trauma Center Verification • Identify designation models to be considered for initial trauma center designation for levels 3 & 4. • Develop initial and long-term processes for designating trauma centers Education and Training • Utilize resource assessment and regional plans to determine education needs related to hospital verification • Support EMD education and training • Develop media campaigns that coincide with national proclamation of special months related to EMS/trauma systems Pre-Hospital EMS • Support BEMS pilot pre-hospital data collection • Develop EMS capacity assessment tool
Phase Five	July 1, 2005 to June 30, 2007
Year 6 & 7	Trauma Registry • Develop RFP to rebid trauma registry software system • Develop first annual report utilizing registry resources • Develop appropriate protections for registry data utilized in formal system QA including state and regional review • Develop model for initial reporting on system level performance • Develop data validation process and resources to support it Regional Trauma Councils • Develop state and regional trauma system performance and outcome benchmarks • All regional trauma plans approved Trauma Center Verification • Implement processes for levels 3 & 4 verification • Monitor designated trauma centers • Identify specialty center linkages and link those into the trauma center standards Education and Training • Promote education of the public and targeted groups regarding prevention of injuries Pre-Hospital EMS • Include dispatch centers in EMS/trauma system quality managements processes • Coordinate trauma registry data with pre hospital care data collection
Phase Six	July 1, 2007 to June 30, 2009
Year 8 & 9	Trauma Registry • Continue training and education on data collection and reporting • Develop queriable trauma registry web site using aggregate data • Evaluate training and education needs for improved data collection and use • Publish 10 year report of trauma system data Regional Trauma Councils • Update and modify regional trauma plans bi- annually • Review and monitor trauma registry reports • Continue to meet and provide regional master planning and direction at the regional level Trauma Center Verification • Conduct review and monitoring of the hospital verification process • Revise and update verification standards as needed • Evaluate hospital verification process to assure consistency with national standards Education and Training • Support education to address needs identified through data Pre-Hospital EMS • Link pre-hospital data including EMS, KDOT with trauma registry • Collaborate with KDOT, BEMS and other agencies to develop joint strategies for system improvement

Testimony in support of Senate Bill No. 183
Kent B. Murray, M.D.
Wichita, Kansas

2-14-05

My name is Kent Murray. I have been a resident of Wichita, Kansas for the past thirty-one years. I am physician and the Chief of Staff of the Robert J. Dole VA Medical Center in Wichita. I am, in addition, an associate professor of internal medicine and Associate Dean for Veterans Affairs at the Kansas University School of Medicine – Wichita. I am testifying today as a private citizen of the state of Kansas and not as a representative of the Department of Veterans Affairs or the Kansas University School of Medicine.

My practice is currently limited to the Wichita VA, although I have also practiced in the private sector in Wichita in the past.

I am here today to request your support of Senate Bill No. 183. This bill will correct an inequity in the current medical licensing statutes.

The licensing category "federal active" was enacted to allow for full licensure of physicians in the federal sector without the requirement for coverage by malpractice insurance needed for the "active" designation. Federal physicians are covered under the Federal Tort Claims Act for any malpractice actions that might arise and do not, therefore, require malpractice coverage in their usual work situation.

However, the law as written is unduly restrictive for those physicians in the "federal active" category. A physician in this category is unable to do a variety of non-compensated activities outside the walls of a federal institution. Excluded are such activities as peer review, certain administrative functions and provision of medical care or supervision without compensation. This in spite of the fact that the "federal active" category of licensure requires everything that the "active" designation requires including full license fees and continuing education hours.

The "exempt" licensing category (held primarily by retired non-practicing physicians) carries a lower licensing fee and no continuing education requirements. Curiously, it then allows for a variety of medical activities, including non-compensated practice.

To use myself as an illustration of the unduly restrictive nature of the "federal active" category as it currently exists, I present the following information. I am a physician who

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has held a Kansas license and practiced in Kansas for thirty years. I am board certified in internal medicine and geriatrics. I am an Associate Professor of Internal Medicine and an Associate Dean at our local medical school. I am Chief of Staff of a VA Medical Center and am administratively responsible for all inpatient and outpatient care which occurs at that medical center. In spite of these facts, under the current law, I cannot legally do clinical teaching involving a patient outside the walls of the VA, do peer review on cases outside the VA, or call in a prescription for my wife to a local pharmacy. These activities carry essentially no malpractice risk, yet currently it would require many thousands of dollars worth of malpractice insurance to be able to legally perform them. I find it difficult to believe this level of restriction was the intent of the legislature when the "federal active" category was instituted some years ago.

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I fully understand the reason for the "federal active" category and completely agree that anyone who practices for compensation in Kansas should be required to be carry the "active" designation and be adequately covered for any malpractice claims that might arise.

I am, however, requesting that you act favorably on Senate Bill No.183 which provides for non-compensated medical activities for physicians with "federal active" licensure. I believe extending the same limited practice exception currently held by those with an "exempt" license to "federal active" licensees has potential benefit to the citizens of the state and corrects what must certainly have been an oversight in the original legislation.

(3)

Testimony in support of Senate Bill No. 183
James E. Sanders, MD
Fairway, Kansas

My name is Jim Sanders, and I am a Kansas physician. I live in Fairway, and practice medicine at the VA Eastern Kansas Health Care System, which includes medical centers in Leavenworth and Topeka. I am here today in my personal capacity, and not in any official capacity as an employee of the Department of Veterans Affairs.

I want to encourage your support of Senate Bill No. 183, which provides for a limited practice exception for physicians licensed in the State of Kansas in the "federal active' category of licensure. If you are not familiar with the "federal active" license category, it may be tempting to think of this group of licensees as out of state physicians who are temporarily in the state of Kansas while on active duty or other federal assignment. I would like to clarify that perception by briefly explaining my own background.

I am a lifetime Kansan. I spent my early years on a farm in Comanche County, where my grandparents had settled. My family then moved to Wichita, where I graduated from Wichita South High. I attended the University of Kansas as an undergraduate and later graduated from the KU School of Law. I practiced law in Topeka for about five years before returning to the University of Kansas to study medicine. I took my residency in Family Practice at KU, and remained there on the faculty until I left to join the VA. While working for the VA I have had teaching appointments at Wichita State University for the education of physician assistants, at the KU School of Nursing for teaching nurse practitioners, and at the KU School of Medicine for teaching medical students and residents. All of these trainees receive part of their clinical training at the VA. While I am employed by the federal government as a physician, and licensed in the "federal active" category, my roots in Kansas are deep and longstanding.

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James E. Sanders, MD
Testimony in support of Senate Bill 183
February 14, 2005

Kansas law allows physicians licensed in the "exempt" category (primarily retired physicians) the opportunity for limited practice of medicine in settings where they are not compensated and do not hold themselves out to the public as engaging in the practice of medicine. The language proposed in Senate Bill 183 would extend this limited practice exception to those licensed in the "federal active" category. The language proposed is exactly that of the existing laws and regulations that govern "exempt" physicians, but extends this limited practice exception to those active physicians whose primary practice is in a federal setting.

Physicians in the "federal active" category pay full license fees to the Board of Healing Arts, maintain the required 150 hours of continuing medical education every three years required for licensure, and have the same requirements for reporting tort claims or adverse privileging actions as do physicians licensed in the "active" category. The limited exception authorized by Senate Bill 183 is to allow for the performance of defined administrative functions and providing medical care or supervision without compensation, including practice as a charitable health care provider.

If a federal physician chooses to work outside of their federal assignment on a compensated basis, I agree that they should obtain an active license and meet the appropriate requirements for maintenance of licensure. The exception proposed would apply only to the limited circumstances described. I believe this amendment of KSA 65-2809 is consistent with previous legislative intent in granting this exception to "exempt" physicians, and I request your support for this bill.

James E. Sanders, MD
Fairway

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.
Executive Director

DATE: February 14, 2005

RE: **S.B. No. 183**

Thank you for the opportunity to appear before you and provide information on behalf of the State Board of Healing Arts pertaining to S.B. No. 183. The Board met last Saturday, considered the provisions of S.B. No. 183, and indicated its support for passage of this bill.

S..B. No. 183 expands, in a limited manner, the activities that may be performed by a licensee of the healing arts holding a federally active license. There are three branches of the healing arts—medicine and surgery, osteopathic medicine and surgery, and chiropractic. Currently, there are 224 medical doctors, 19 osteopathic doctors, and 4 chiropractic doctors that hold a federally active license. The present law restricts the practice of a licensee holding a federally active license to their federal employment or military duties and to services as a charitable health care provider. If enacted, S.B. No. 183 would allow the performance of administrative functions and services constituting the practice of the healing arts that are provided gratuitously. The additional duties that would be allowed are already permitted to be performed by those holding exempt licenses under K.A.R. 100-10a-4. Exempt license holders are not required to provide proof of continuing education as a condition of renewal of their licenses on an annual basis. On the other hand, persons with a federally active license must meet all license and renewal requirements of a person holding a fully active license, except for the maintenance of professional liability insurance in compliance with the Health Care Provider Insurance Availability Act. While performing services for the U.S. government, federally active licensees are covered for professional liability under the Federal Tort Claims Act.

Thank you for allowing me to provide this testimony in support of S.B. No. 183. I would be happy to respond to any questions.

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

Senate Public Health & Welfare
2-14-05 Attachment #4

Dennis Pyle - Abuse in Daycares

From: Denice NIgh <nigh629@yahoo.com>
To: <pyle@senate.state.ks.us>
Date: 2/13/2005 9:54:54 PM
Subject: Abuse in Daycares

Dear Mr. Pyle,

On Friday, I received a phone call from Cindy Schilling regarding upcoming legislation regarding abuse in daycare facilities.

You are well aware of the case involving Regina Rygaard and her son, Chris. My daughter was the four year old little girl that was sexually assaulted in that case. She turns eight next Monday.

I wish I could be there to voice my concerns and opinions when it comes to the rules of KDHE and the issues they allow to continue. After the incident, Regina was determined to reopen a daycare either in her home or in another facility in Hiawatha. Thanks to a lot of concerned citizens the rezoning was not allowed. If it had been, she would have been opening another daycare with the "help" of a good friend.

I strongly feel that if abuse occurs in a daycare, that provider should never be allowed to reopen or even work in another daycare type situation. Mrs. Rygaard was never held accountable for the actions that happened that day. She left her home unsupervised with only her fourteen year old son in charge of several children. In doing so, that gave her son the opportunity to prey on my little girl. Not only that, but there were several times that abuse happened to other children as well. These facts came out after my daughter was assaulted. We thank God every day that she was able to tell us what had happened and that the abuse could end for her and the others.

I wish that I could be there on Monday to speak, but am not able to do so. If there is anything regarding this issue that I can help with in the future, I would be more than willing to do so. There has to be better protection for our children and to let daycare providers reopen after confirmed abuse has occured is not in their best interest.

Please feel free to use this letter if you can and contact me anytime if I can help. I would be more than willing to be a voice for this issue if it can help others.

Thank you.

Denice Nigh
2 Huron Court
Hiawatha, KS

742-7520

Senate Public Health & Welfare
2-14-05 Attachment #5

KANSAS

RODERICK L. BREMBY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF HEALTH AND ENVIRONMENT

Testimony on Senate Bill 208
To
Senate Public Health and Welfare

By Christine Ross-Baze
Director, Child Care Licensing and Registration Program

Kansas Department of Health and Environment
February 14, 2005

Senator Barnett and members of the Public Health and Welfare Committee. I am here to testify today on SB 208.

Senate Bill 208 proposes new legislation affecting child care facilities and family day care homes. Specifically the bill requires the Secretary of Health and Environment to permanently deny, revoke or refuse to renew a certificate of registration or temporary permit for a licensed child care provider if the conditions set forth in the bill are met. Under existing statutes a licensee or registrant who has had their license or certificate revoked or not renewed can not reapply for one year.

In reviewing Senate Bill 208 and the possible implications, a number of questions and issues arose which affect the Department's ability to implement the provisions of the bill. The major questions and issues of concern include the following:

The bill does not mention permanently denying, revoking or refusing to renew a full license. Clarifying whether or not the intent of the bill is to apply the permanent prohibition to the issuance of a full license in addition to temporary permits and certificates would be helpful to the Department.

The term "licensed child care provider" and the term "nonlicensed child care provider" also need some clarification. The Department licenses child care facilities and registers family day care homes. The term "child care provider" or "care provider" is typically used to describe the person who is actually caring for the children. In a day care home this could be the operator of the day care home, a staff person or a substitute. In a child care center this could be the teacher, assistant teacher or a volunteer. These individual child care providers are qualified to work with the children but are not individually "licensed". The term

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Attachment #6

"nonlicensed child care provider" could be interpreted to mean the child care provider has not met the qualifications necessary to care for the children. This term could also mean the person is a staff person, substitute, volunteer or other qualified person working in the child care facility but who is not the operator of the licensed child care facility or registered family day care home. In addition, this term could mean the person is maintaining a child care facility or family day care home without becoming regulated in violation of the law.

K.S.A. 65-504 and K.S.A. 65-521 prohibit licensees or registrants who have had their license or certificate revoked or not renewed, from reapplying for a license or certificate for one year. This bill permanently prohibits the Secretary from issuing a temporary permit or certificate to a licensed child care provider who meets the conditions outline in the bill. The proposed bill appears to conflict with these existing statutes.

The permanent prohibition in this bill is a more severe penalty for the licensed child care provider than for the nonlicensed child care provider who actually committed the abuse. The nonlicensed child care provider can obtain an expungement of the SRS validation after a period of time and would then be eligible to obtain a temporary permit or certificate. Only the licensed child care provider would not be eligible to obtain a temporary permit or certificate under the provisions of the bill.

The bill does not address the scenario of a nonlicensed child care provider abusing a child and the investigation is completed by law enforcement instead of by SRS. In this case the abuse could go through the criminal justice system and not necessarily through SRS. In this scenario no SRS validation would be on file.

The level of evidence needed to permanently deny, revoke or not renew will be difficult to obtain. Evidence is needed to prove the licensed child care provider was the one who left the child with the nonlicensed child care provider; the licensed child care provider actually left the premises and the licensed child care provider knew the child care provider was nonlicensed.

The bill seems to be addressing individuals who are "licensed child care providers" or "nonlicensed child care providers". A large number of child care facility licenses are issued to corporate entities. It is not clear whether a corporate entity is covered by this bill.

If the Senate Bill 208 is to proceed, the Department would like to have the opportunity to work with the author of the bill and the Revisor's Office to draft clarifying language that accomplishes the author's intent and addresses the Department's concerns.

Thank you for the opportunity to testify before you today. I am available to answer any questions you may have.

accordance with the act for judicial review and civil enforcement of agency actions.

(f) (1) This section applies to each operator of a mobile dental facility or portable dental operation that provides dental services except those specifically exempted by subsection (2).

(2) This section shall not apply to:

(A) Dentists providing dental services for federal, state and local governmental agencies;

(B) dentists licensed to practice in Kansas providing emergency treatment for their patients of record;

(C) dentists who are not employed by or independently contracting with a mobile dental facility or portable dental operation who provide nonemergency treatment for their patients of record outside the dentist's physically stationary office fewer than 30 days per calendar year; and

(D) dental hygienists who are providing dental hygiene services as authorized by the Kansas dental act and the board's rules and regulations.

(g) This section shall be part of and supplemental to the dental practices act.