

Approved: January 19, 2006
Date

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 1:30 P.M. on January 18, 2006, in Room 526-S of the Capitol.

All members were present except Representative Kilpatrick, who was excused.

Committee staff present:

Mary Galligan, Kansas Legislative Research Department
Renae Jefferies, Revisor of Statutes' Office
Gary Deeter, Committee Secretary

Conferees appearing before the committee:

Charles "Chip" Wheelen, Executive Director, Kansas Association of Osteopathic Medicine

Others attending:

See attached list.

The Chair introduced Fred Lucky, Senior Vice President, Kansas Hospital Association, who requested the committee sponsor a bill expanding the prohibition of the sale and use of tobacco in a medical care facility. The request was approved.

The Chair reviewed the way members handle electronic privileged testimony.

The Minutes for 1-17-2006 were approved.

Chip Wheelen, Executive Director, Kansas Association of Osteopathic Medicine, recounted early Kansas medical history and traced the development of the Kansas Healing Arts Act. (Attachment 1) Commenting on the time before Kansas became a state, he said medical practice ranged from snake-oil salesmen and purchased-credential posers to legitimate physicians and apothecaries, one of which was Andrew Taylor Still, an ardent abolitionist and a political activist. He was also one of the first physicians to promote disease prevention and wellness; he eschewed the medical practice of the day and discouraged the use of drugs, eventually renouncing medical practice and founding the American School of Osteopathy at Kirksville, Missouri, in 1892.

Mr. Wheelen reviewed the maneuvering of osteopaths, allopaths (medical doctors), and chiropractors for recognition, credentialing, and scope of practice, noting that a Kansas Supreme Court decision in 1936 restricted osteopaths from prescribing medicine and performing surgery, but that World War II resulted in osteopaths expanding their scope of practice and consequently (in 1955) being credentialed nearly on a level with medical doctors, a consequence that resulted in the Healing Arts Act in Kansas in 1957. He

stated that the Act has been amended numerous times and placed other professions under the Healing Arts Board, but only the three branches of the healing arts are governed by the Healing Arts Act.

Answering questions, Mr. Wheelen said podiatrists are limited to prescribing drugs and performing foot surgery; they are not governed by the Healing Arts Board. Likewise dentists have separate statutory credentialing and are governed by a different board; they are allowed to prescribe medicine and perform oral surgery, the latter practice which can be broadened in certain hospital settings. He replied that osteopathic and medical doctors are subject to nearly identical tests to verify competency.

The Chair invited members to request introduction of bills. Representatives Mast and Hill requested a bill deleting a section of the statute relating to renal dialysis. The request was approved by vote of the committee. Representative Kirk requested the committee sponsor a bill increasing the number of social workers on the Behavioral Sciences Regulatory Board. The request was approved.

The meeting was adjourned at 2:23 p.m. The next meeting is scheduled for Thursday, January 19, 2006.

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

DATE: JANUARY 18 2006

NAME	REPRESENTING
SWK	KCH
Carolyn Messinger	Ks St Ns Assn
Gene Cannata	none
FRED Lucky	Kansas Hosp Assn
Chad Austin	KHA
Chip Wheeler	Asn of Osteo. Med.
Beth Lyles	Huffles Govt Relations
Ron Seiber	Hein Law Firm
Janifer Lynn	Progan, Smith, + Associates
Lindsey Douglas	Hein Law Firm
Melissa Hungerford	KHA
Michelle Peterson	Capitol Strategies
Dan Morin	KMS
Jerry Slaughter	KMS
Rebecca Rice	Ks. Chiropractic Assn. + Ks Nurse Anesthetists Assn.
Cynthia Smith	ASC Health System
Wanda DeCoursey	Am. Heart Assoc.
Amy Campbell	Mental Health Coalition



Early Kansas Medical History And the Kansas Healing Arts Act

By Charles L. (Chip) Wheelen

January 18, 2006

Introduction

We appreciate this opportunity to describe some of the Kansas history preceding enactment of the Healing Arts Act, and the opportunity to elaborate on the origins of osteopathy. It is a little-known historical fact that Douglas County Kansas is the birthplace of osteopathic medical practice.

Pioneer Health Care in Kansas

During territorial years and early statehood, Kansans had a wide variety of choices among health care providers. There was no licensing or regulation of those who professed to be doctors or healers, so people had to rely on their neighbors for referral to competent physicians or dentists, or just take their chances. Early Kansans looked for the distinctive diploma that would indicate that the physician or dentist had academic credentials. Unfortunately, it was relatively easy to purchase a diploma from an unaccredited proprietary medical school.

The Kansas territory also had its share of entrepreneurs who claimed to possess miraculous healing powers, or promoted the sale of remedies that were purported to cure almost any ailment. Sometimes these remedies contained enough narcotic or alcohol to result in addiction to the elixir. In contrast, most legitimate physicians dispensed medicines from their offices, or gave the patient a prescription to be compounded by an apothecary. But even the legitimate drugs were crude and had serious side effects.

Andrew Taylor Still

One of the early Kansas physicians was a Methodist minister named Abram Still who was appointed missionary to the Shawnee Indians in 1851. His son Andrew assisted his father providing health care to settlers as well as members of the Shawnee tribe. Like most physicians of that era, Andrew's training consisted of apprenticeship rather than medical college. The family eventually moved from the Wakarusa Mission to Douglas County near Baldwin.

Andrew Taylor Still became an outspoken advocate for abolition of slavery, and was elected to the Free Kansas Legislature in 1857. At the outset of the Civil War, he served in the 9th Kansas Cavalry as a hospital steward. During that time he learned surgical skills, principally removal of bullets and amputation of limbs.

After the Civil War, Dr. Still returned to Douglas County to resume his medical practice. He was confronted with epidemics of cholera, malaria, pneumonia, smallpox, diphtheria, and tuberculosis. Drugs of that era such as calomel (a mercury compound) and opium were crude. The use of calomel had many undesirable side effects and opium was addictive, resulting in what was known as "soldier's disease."

In 1864 three of Dr. Still's children died of spinal meningitis. This had a profound effect on him, and caused him to lose faith in orthodox medical practice. He then commenced his quest for better methods of healing and equally important, disease prevention.

Attachment 1
HHS 1-18-06

In 1874 Andrew Still publicly denounced orthodox medical practice, which shocked the Baldwin community. He promoted the principals of disease prevention and wellness, and stressed the interrelationship between the structure of the human body and the functions of its organs. He was somewhat unpopular because he discouraged the consumption of whiskey and tobacco products. He also discouraged the use of drugs or surgery. When Dr. Still asked for permission to explain his theories on healing at Baker University, his request was denied. He then moved his family to Kirksville, Missouri where in 1892 he established the American School of Osteopathy. To distinguish the graduates from other physicians, the college awarded the Doctor of Osteopathy degree.

Early Licensing and Regulation

In the years following Kansas statehood, the county medical societies were extremely important. There were no state laws prohibiting the practice of medicine and surgery by unqualified individuals, but membership in a county medical society was the functional equivalency of licensure. Thus the public had a reliable way of knowing whether a person who professed to be a physician really was.

Officers of the county medical societies made a concerted effort to assure that their members had either several years of successful medical practice, or were graduates of legitimate medical schools. If a physician proved to be incompetent, he would be expelled from the county medical society. Because they did not have a Doctor of Medicine degree, doctors of osteopathy or chiropractic were not eligible for membership in county medical societies.

As public interest in regulation of physicians increased, most legislatures adopted the model developed by county medical societies. In addition to the requirement for academic credentials, medical school graduates were expected to pass an examination to determine that they possessed the requisite knowledge. In 1901 the Kansas Legislature enacted the first few sections of law prescribing "Examination and Registration of Doctors of Medicine or Surgery." As more sections were added, the medical practice act became K.S.A.s 65-1001 through 1011. This act allowed osteopathic doctors (D.O.s) to practice in Kansas, so long as they did not prescribe drugs or perform surgery.

Because chiropractic doctors (D.C.s) were not eligible for licenses, nor lawfully allowed to practice in Kansas at all, there ensued some rather fierce political battles. Many chiropractors continued to practice in Kansas despite the lack of a license. The allopathic physicians (M.D.s) argued that D.C.s were practicing medicine without a license, while the D.C.s argued they should be eligible for licensure.

The Kansas Legislature attempted to resolve the controversy in 1913 by enacting two new licensure acts; K.S.A. 65-1201 through 1208 prescribed "Examination and Registration of Osteopathic Physicians," while K.S.A. 65-1301 through 1311 prescribed "Examination and Registration of Chiropractors." These new laws did not, however, completely resolve the scope of practice disputes among the three groups of doctors.

Evolution of Osteopathic Education and Practice

During the first part of the twentieth century the number of osteopathic colleges increased throughout the United States. As medical science and technology made progress, and better quality drugs were developed, the curriculum at osteopathic medical schools expanded to include more courses in pharmacology and surgery. In time, the academic curriculum at osteopathic colleges resembled the academic courses taught at allopathic medical schools. There are now twenty osteopathic medical schools located throughout the United States which bestow the Doctor of Osteopathy degree.

It may have been the economics of the depression era that motivated osteopathic doctors to expand their scope of practice. Because their academic training now included pharmacology and surgery as well as diagnosis and treatment, many of them did not hesitate to prescribe drugs or perform surgery. In 1936 the Kansas Board of Medical Examination filed a petition in Riley County alleging that an osteopathic doctor was violating Kansas law by prescribing drugs. The case was appealed to the Kansas Supreme Court which decided in favor of the medical board. In other words, the Supreme Court decided that osteopathic doctors could not lawfully prescribe drugs or perform surgery.

In response to the Court's decision, the osteopathic profession aggressively pursued legislation that would expand their scope of practice, but the Legislature failed to pass the bills. During World War II, while many allopathic physicians were serving in the military, the osteopathic physicians were sometimes the only doctors left in the community. They routinely delivered infants, prescribed drugs, and performed surgery, despite the Supreme Court decision.

The Healing Arts Act

Following the war, the D.O.s and M.D.s continued to argue about scope of practice issues. A major breakthrough occurred in 1955 when a committee of the American Medical Association surveyed osteopathic colleges and concluded that the curriculum was consistent with courses taught in allopathic medical schools. By this time, Kansas D.O.s and M.D.s finally reached agreement on a proposal that would allow osteopathic doctors to take an examination in medicine and surgery. If they passed, they were allowed to practice medicine and surgery, but could not use the acronym M.D.

The compromise between D.O.s and M.D.s resulted in the Kansas Healing Arts Act which became law in 1957. It repealed the three separate examination and registration acts for allopathic physicians, osteopathic physicians, and chiropractors, and instead created the three branches of the healing arts. Initially the chiropractors were opposed to the Act because they had not participated in the compromise. They challenged the constitutionality of the new law, but they were unsuccessful.

Almost fifty years later the Healing Arts Act has been amended numerous times, but its principal features remain the same. Beginning at K.S.A. 65-2801, for the expressed purpose of protecting the public, it grants the privilege of practicing the healing arts exclusively to licensees. It defines the practice of the healing arts generally to include, "any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, or injury."

The Healing Arts Act authorizes the practice of medicine and surgery by both D.O.s and M.D.s, and authorizes the practice of chiropractic by D.C.s. The same definitions of "professional incompetency" and "unprofessional conduct" are applied to all three professions and all three professions may lose their license for the same reasons (see attachment).

Authority to license and regulate these three branches of the healing arts is delegated to the Board of Healing Arts, which currently includes fifteen members appointed by the Governor. It is important to note that over the years the Legislature has chosen to delegate numerous additional responsibilities to the Board of Healing Arts. As a result, several other professions are licensed and regulated by the Board, but they are not governed by the Healing Arts Act, nor are they licensed to practice the healing arts.

Conclusion

We hope this information will assist you in your deliberations during the ensuing legislative session. Thank you for the opportunity to discuss the origins of osteopathic medical practice, and explain the history leading up to enactment of the Kansas Healing Arts Act.

Excerpts from Kansas Healing Arts Act

65-2836. Revocation, suspension, limitation or denial of licenses; censure of licensee; grounds; consent to submit to mental or physical examination or drug screen, or any combination thereof, implied. A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

(a) The licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license.

(b) The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency.

(c) The licensee has been convicted of a felony or class A misdemeanor, whether or not related to the practice of the healing arts. The board shall revoke a licensee's license following conviction of a felony occurring after July 1, 2000, unless a 2/3 majority of the board members present and voting determine by clear and convincing evidence that such licensee will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust. In the case of a person who has been convicted of a felony and who applies for an original license or to reinstate a canceled license, the application for a license shall be denied unless a 2/3 majority of the board members present and voting on such application determine by clear and convincing evidence that such person will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust.

(d) The licensee has used fraudulent or false advertisements.

(e) The licensee is addicted to or has distributed intoxicating liquors or drugs for any other than lawful purposes.

(f) The licensee has willfully or repeatedly violated this act, the pharmacy act of the state of Kansas or the uniform controlled substances act, or any rules and regulations adopted pursuant thereto, or any rules and regulations of the secretary of health and environment which are relevant to the practice of the healing arts.

(g) The licensee has unlawfully invaded the field of practice of any branch of the healing arts in which the licensee is not licensed to practice.

(h) The licensee has engaged in the practice of the healing arts under a false or assumed name, or the impersonation of another practitioner. The provisions of this subsection relating to an assumed name shall not apply to licensees practicing under a professional corporation or other legal entity duly authorized to provide such professional services in the state of Kansas.

(i) The licensee has the inability to practice the healing arts with reasonable skill and safety to patients by reason of physical or mental illness, or condition or use of alcohol, drugs or controlled substances. In determining whether or not such inability exists, the board, upon reasonable suspicion of such inability, shall have authority to compel a licensee to submit to mental or physical examination or drug screen, or any combination thereof, by such persons as the board may designate either in the course of an investigation or a disciplinary proceeding. To determine whether reasonable suspicion of such inability exists, the investigative information shall be presented to the board as a whole, to a review committee of professional peers of the licensee established pursuant to K.S.A. 65-2840c and amendments thereto or to a committee consisting of the officers of the board elected pursuant to K.S.A. 65-2818 and amendments thereto and the executive director appointed pursuant to K.S.A. 65-2878 and amendments thereto or to a presiding officer authorized pursuant to K.S.A. 77-514 and amendments thereto. The determination shall be made by a majority vote of the entity which reviewed the investigative information. Information submitted to the board as a whole or a review committee of peers or a committee of the officers and executive director of the board and all reports, findings and other records shall be confidential and not subject to discovery by or release to any person or entity. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such examination or drug screen, or both. A person affected by this subsection shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of the healing arts with reasonable skill and safety to patients. For the purpose of this subsection, every person licensed to practice the healing arts and who shall accept the privilege to practice the healing arts in this state by so practicing or by the making and filing of a renewal to practice the healing arts in this state shall be deemed to have consented to submit to a mental or physical examination or a drug screen, or any combination thereof, when directed in writing by the board and further to have waived all objections to the admissibility of the testimony, drug screen or examination report of the person conducting such examination or drug screen, or both, at any

proceeding or hearing before the board on the ground that such testimony or examination or drug screen report constitutes a privileged communication. In any proceeding by the board pursuant to the provisions of this subsection, the record of such board proceedings involving the mental and physical examination or drug screen, or any combination thereof, shall not be used in any other administrative or judicial proceeding.

(j) The licensee has had a license to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(k) The licensee has violated any lawful rule and regulation promulgated by the board or violated any lawful order or directive of the board previously entered by the board.

(l) The licensee has failed to report or reveal the knowledge required to be reported or revealed under K.S.A. 65-28,122 and amendments thereto.

(m) The licensee, if licensed to practice medicine and surgery, has failed to inform in writing a patient suffering from any form of abnormality of the breast tissue for which surgery is a recommended form of treatment, of alternative methods of treatment recognized by licensees of the same profession in the same or similar communities as being acceptable under like conditions and circumstances.

(n) The licensee has cheated on or attempted to subvert the validity of the examination for a license.

(o) The licensee has been found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or incompetent to stand trial by a court of competent jurisdiction.

(p) The licensee has prescribed, sold, administered, distributed or given a controlled substance to any person for other than medically accepted or lawful purposes.

(q) The licensee has violated a federal law or regulation relating to controlled substances.

(r) The licensee has failed to furnish the board, or its investigators or representatives, any information legally requested by the board.

(s) Sanctions or disciplinary actions have been taken against the licensee by a peer review committee, health care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(t) The licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(u) The licensee has surrendered a license or authorization to practice the healing arts in another state or jurisdiction, has surrendered the authority to utilize controlled substances issued by any state or federal agency, has agreed to a limitation to or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(v) The licensee has failed to report to the board surrender of the licensee's license or authorization to practice the healing arts in another state or jurisdiction or surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(w) The licensee has an adverse judgment, award or settlement against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(x) The licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(y) The licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a and amendments thereto.

(z) The licensee has failed to pay the premium surcharges as required by K.S.A. 40-3404 and amendments thereto.

(aa) The licensee has knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill or statement.

(bb) The licensee as the responsible physician for a physician assistant has failed to adequately direct and supervise the physician assistant in accordance with the physician assistant licensure act or rules and regulations adopted under such act.

(cc) The licensee has assisted suicide in violation of K.S.A. 21-3406 as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406 and amendments thereto.

(B) A copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 2002 Supp. 60-4404 and amendments thereto.

(C) A copy of the record of a judgment assessing damages under K.S.A. 2002 Supp. 60-4405 and amendments thereto.

65-2837. Professional incompetency, unprofessional conduct; definitions. As used in K.S.A. 65-2836, and amendments thereto, and in this section:

(a) "Professional incompetency" means:

(1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board.

(2) Repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board.

(3) A pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice medicine.

(b) "Unprofessional conduct" means:

(1) Solicitation of professional patronage through the use of fraudulent or false advertisements, or profiting by the acts of those representing themselves to be agents of the licensee.

(2) Representing to a patient that a manifestly incurable disease, condition or injury can be permanently cured.

(3) Assisting in the care or treatment of a patient without the consent of the patient, the attending physician or the patient's legal representatives.

(4) The use of any letters, words, or terms, as an affix, on stationery, in advertisements, or otherwise indicating that such person is entitled to practice a branch of the healing arts for which such person is not licensed.

(5) Performing, procuring or aiding and abetting in the performance or procurement of a criminal abortion.

(6) Willful betrayal of confidential information.

(7) Advertising professional superiority or the performance of professional services in a superior manner.

(8) Advertising to guarantee any professional service or to perform any operation painlessly.

(9) Participating in any action as a staff member of a medical care facility which is designed to exclude or which results in the exclusion of any person licensed to practice medicine and surgery from the medical staff of a nonprofit medical care facility licensed in this state because of the branch of the healing arts practiced by such person or without just cause.

(10) Failure to effectuate the declaration of a qualified patient as provided in subsection (a) of K.S.A. 65-28,107, and amendments thereto.

(11) Prescribing, ordering, dispensing, administering, selling, supplying or giving any amphetamines or sympathomimetic amines, except as authorized by K.S.A. 65-2837a, and amendments thereto.

(12) Conduct likely to deceive, defraud or harm the public.

(13) Making a false or misleading statement regarding the licensee's skill or the efficacy or value of the drug, treatment or remedy prescribed by the licensee or at the licensee's direction in the treatment of any disease or other condition of the body or mind.

(14) Aiding or abetting the practice of the healing arts by an unlicensed, incompetent or impaired person.

(15) Allowing another person or organization to use the licensee's license to practice the healing arts.

(16) Commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice.

(17) The use of any false, fraudulent or deceptive statement in any document connected with the practice of the healing arts including the intentional falsifying or fraudulent altering of a patient or medical care facility record.

- (18) Obtaining any fee by fraud, deceit or misrepresentation.
 - (19) Directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually and personally rendered, other than through the legal functioning of lawful professional partnerships, corporations or associations.
 - (20) Failure to transfer patient records to another licensee when requested to do so by the subject patient or by such patient's legally designated representative.
 - (21) Performing unnecessary tests, examinations or services which have no legitimate medical purpose.
 - (22) Charging an excessive fee for services rendered.
 - (23) Prescribing, dispensing, administering, distributing a prescription drug or substance, including a controlled substance, in an excessive, improper or inappropriate manner or quantity or not in the course of the licensee's professional practice.
 - (24) Repeated failure to practice healing arts with that level of care, skill and treatment which is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances.
 - (25) Failure to keep written medical records which accurately describe the services rendered to the patient, including patient histories, pertinent findings, examination results and test results.
 - (26) Delegating professional responsibilities to a person when the licensee knows or has reason to know that such person is not qualified by training, experience or licensure to perform them.
 - (27) Using experimental forms of therapy without proper informed patient consent, without conforming to generally accepted criteria or standard protocols, without keeping detailed legible records or without having periodic analysis of the study and results reviewed by a committee or peers.
 - (28) Prescribing, dispensing, administering or distributing an anabolic steroid or human growth hormone for other than a valid medical purpose. Bodybuilding, muscle enhancement or increasing muscle bulk or strength through the use of an anabolic steroid or human growth hormone by a person who is in good health is not a valid medical purpose.
 - (29) Referring a patient to a health care entity for services if the licensee has a significant investment interest in the health care entity, unless the licensee informs the patient in writing of such significant investment interest and that the patient may obtain such services elsewhere.
 - (30) Failing to properly supervise, direct or delegate acts which constitute the healing arts to persons who perform professional services pursuant to such licensee's direction, supervision, order, referral, delegation or practice protocols.
 - (31) Violating K.S.A. 65-6703 and amendments thereto.
- (c) "False advertisement" means any advertisement which is false, misleading or deceptive in a material respect. In determining whether any advertisement is misleading, there shall be taken into account not only representations made or suggested by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations made.
- (d) "Advertisement" means all representations disseminated in any manner or by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of professional services.
- (e) "Licensee" for purposes of this section and K.S.A. 65-2836, and amendments thereto, shall mean all persons issued a license, permit or special permit pursuant to article 28 of chapter 65 of the Kansas Statutes Annotated.
- (f) "License" for purposes of this section and K.S.A. 65-2836, and amendments thereto, shall mean any license, permit or special permit granted under article 28 of chapter 65 of the Kansas Statutes Annotated.
- (g) "Health care entity" means any corporation, firm, partnership or other business entity which provides services for diagnosis or treatment of human health conditions and which is owned separately from a referring licensee's principle practice.
- (h) "Significant investment interest" means ownership of at least 10% of the value of the firm, partnership or other business entity which owns or leases the health care entity, or ownership of at least 10% of the shares of stock of the corporation which owns or leases the health care entity.