

Approved: February 1, 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 31, 2006, in Room 526-S of the Capitol.

All members were present except Representatives Trimmer and Kilpatrick, both of whom were excused.

Committee staff present:

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

Conferees appearing before the committee:

Representative Nancy Kirk
Sky Westerlund, Executive Director, Kansas Chapter, National Association of Social Workers
Phyllis Gilmore, Executive Director, Behavioral Sciences Regulatory Board
Ron Hein, Mental Health Credentialing Coalition

Others attending:

See attached list.

The minutes for 1-30-2006 were approved.

The Chair opened the meeting for bill introductions.

Dr. Sarah Johnston, Wichita, requested the committee sponsor a bill addressing what she called a recent medical advance dealing with emergency contraception, which would reduce abortions and unintended pregnancies. (Attachment 1) By motion, second and vote the committee agreed to sponsor the bill.

The Chair requested a bill that would allow rest room access in public buildings that have employee but not public rest rooms. The committee agreed to introduce the bill as a committee bill.

Representative Watkins asked the committee to sponsor a resolution that would call on the State Board of Education to require schools to include physical education classes in grades K-12. The committee voted to sponsor the resolution.

Representative Watkins requested the committee sponsor a bill regulating medical facilities, specifically abortion facilities, noting that the committee passed out a similar bill in 2005. By motion, second, and positive vote, the committee concurred.

Representative Colloton requested a bill that would make public schools smoke-free, extending the smoke-free zone to all school property. The committee agreed and passed the motion.

Representative Hill requested the introduction of four bills as committee bills: the first regarding **K.S.A. 65-1635a** replacing the words *American Council on Pharmaceutical Education* with *Accreditation Council for Pharmacy*; the second changing **K.S.A. 65-1663** allowing pharmacy technicians be registered within 30 days of their hire; the third amending **K.S.A. 65-1648** to allow hospice nurses to carry an emergency medical kit; and the fourth permitting pharmacy interns to transfer prescriptions under the supervision of pharmacist. Upon later reflection, Representative Hill requested that the fourth item be withdrawn as unnecessary. By motion, second, and majority vote the committee agreed to sponsor the bills requested.

The Chair opened the hearing on **HB 2660.**

Representative Nancy Kirk, who originally introduced the bill, said the social work profession was under-represented on the Behavioral Sciences Regulatory Board. (Attachment 2) She noted that the 5000-plus social workers under the board's jurisdiction were represented by only two board members and that increasing representation to a total of 6 would more accurately reflect the composition of those regulated by the board. She also commented that, because of the wide range of services provided by social workers, widening the representation of social workers on the board would provide a better perspective for the board, which, as it is now constituted, reflects a primary focus on mental health.

Sky Westerlund, Executive Director, Kansas Chapter, National Association of Social Workers, also spoke as a proponent of the bill. (Attachment 3) She stated that social workers comprise 66% of those regulated by the BSRB, a disproportionate representation with only two board members. She observed that social workers provide a wide range of services, whereas the BSRB has a narrow focus on mental health, a focus which limits the voice of social workers on the board in protecting the public.

Phyllis Gilmore, Executive Director, Behavioral Sciences Regulatory Board, commenting that the board had not yet met so was unable to render any judgment on the bill; she considered her testimony as neutral. (Attachment 4) She outlined the eleven-member composition of the board, which regulates five professions: 4 public members, one marriage and family therapy member, two psychology members, a masters-level psychology member, a professional counselor member, and 2 social work members. She said the bill would result in a major policy shift in the board were it to become law, stating that she would welcome further dialogue with social workers.

Ron Hein, representing the Mental Health Credentialing Coalition, spoke as an opponent to the bill. (Attachment 5) He stated that the coalition was formed to obviate turf battles, to encourage collaboration, and to emphasize a multi-disciplinary approach. He observed that if the bill were to pass, the board would be less likely to represent the public interest, but rather represent the interests of one provider group, stating that the BSRB was designed to regulate, not represent, the licensees.

Two persons provided written testimony in opposition to the bill: Michael Hammond, Executive Director, Association of Community Mental Health Centers of Kansas, (Attachment 6) and David Hill, Legislative Committee, Kansas Psychological Association. (Attachment 7)

Members asked numerous questions, which were answered thus:

- Ms. Westerlund said board members were appointed by the governor after having received recommendations from associations or applications from interested individuals;
- Ms. Gilmore said the present board exhibits excellent cohesion and has a notable absence of dissension;
- Ms. Gilmore replied that the fiscal impact of the bill would result in an additional \$18,000 expense to the board; she noted that the board is supported solely by fees;
- Ms. Gilmore stated that a five-member committee reviews complaints and handles disciplinary action. The committee always has at least two public members, one psychologist, and one social worker. She noted that the board came into existence when the legislature united the separate boards of social workers and psychologists;
- Ms. Westerlund replied that some issues could have been settled within the board (She cited a confidentiality reform bill and a significant fee increase as examples.) had there been a better representation of social workers;
- Mr. Hein replied that previous administrations had requested recommendations from him as potential board members.

The Chair closed the hearing on **HB 2660**.

Staff Mary Galligan briefed the committee on **HB 2649**, which would create a pain patient's bill of rights, allowing patients to participate in treatment decisions and authorize physicians to prescribe medically necessary opiates to relieve pain. She stated that the bill would amend current law to clarify the standard for violation of the criminal law against assisted suicide and the standard for determining professional incompetency for physicians regarding prescribing drugs.

The meeting was adjourned at 3:00 p.m. The next meeting is scheduled for Wednesday, February 1, in Room 526-S.

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

DATE: January 31 2006

NAME	REPRESENTING
Sky Westerland	KNASW
Mary Barrett	
Phyllis Gilmore	BSRB
Ron Hein	Mental Health Credentialing ^{Assoc.}
Justin Kendall	The Fitch
Nathan Weinert	Rep. Trimmer
Lindsey Douglas	Hein Law Firm
Ron Hein	MHC
FRED LUCKY	KAN. Hosp. Assn
Shelby Sweeney	Assoc. of CMHCs
	Tom Holland
Jeff Boone	Delia Garcia
EMITT LYNN	Pregar, Smith, and Associates
Beth Chast	Huffles Guest Relations
Jana Macey	Proxenda, KS NOW
Sarah Johnston MD	self
Sarah London	AKM
Doug Smith	KS Society of Anesthesiologists
Whitney Jamron	KS Psychological Assn.

Introduction of the Abortion Reduction Education Act
Sarah Johnston MD
January 31, 2006

Abortion facts

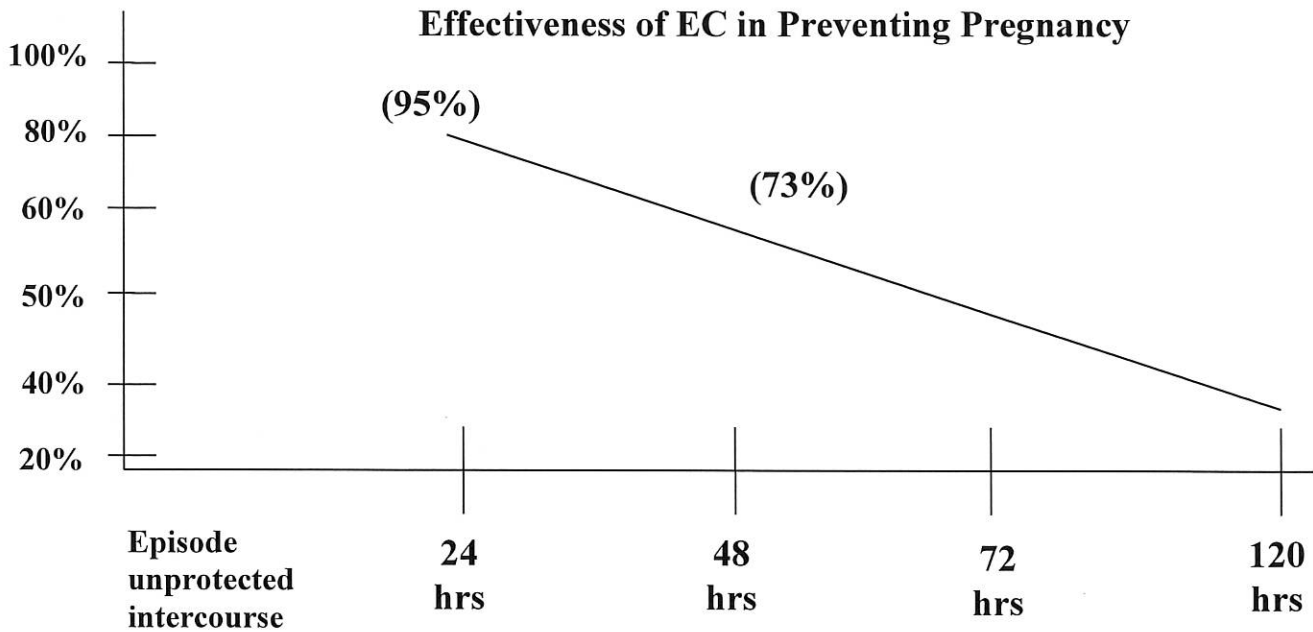
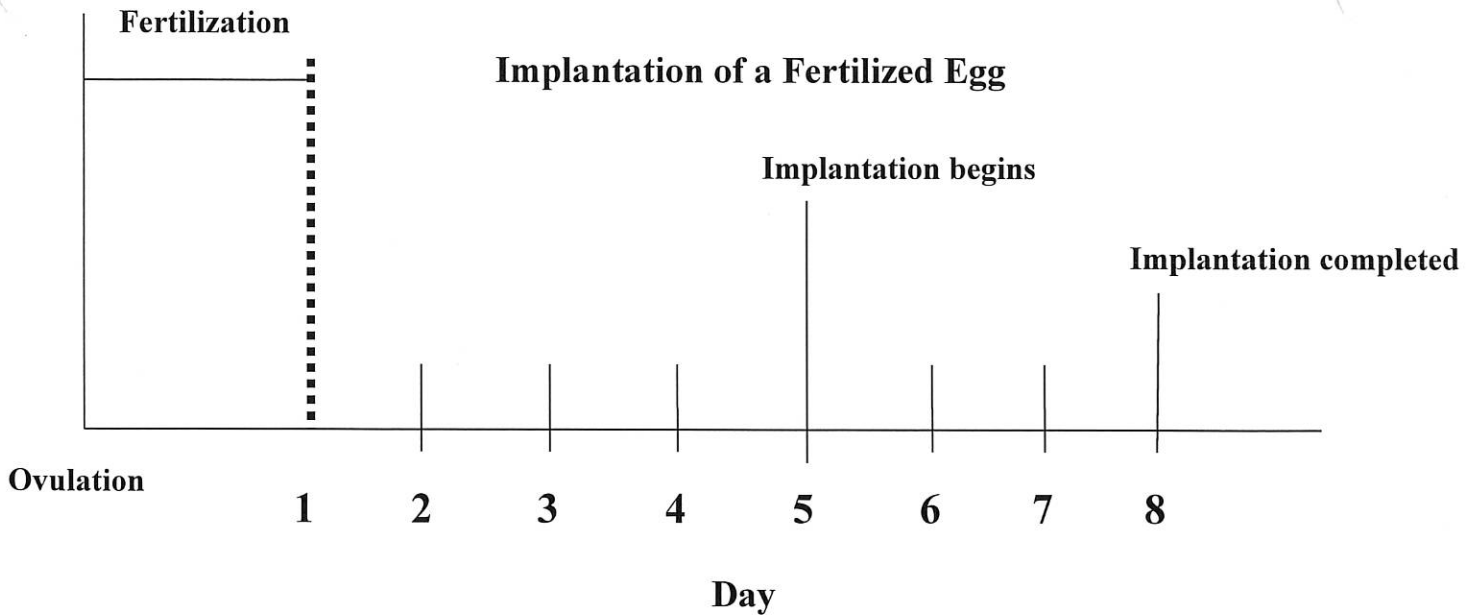
The root causes of abortion are unintended pregnancy, poverty, and lack of access to health care.

- Unintended pregnancy
 - Approximately 6 million American women become pregnant each year. The pregnancy is unintended for 50% (3 million). It is unintended for 80% of pregnant teenagers. One of every two US women aged 15-44 has experienced at least one unintended pregnancy.
 - About 50% unintended pregnancies occur among the 7% women ages 15-44 who do not use contraception.
- Lack of access to health care is the main reason women don't use contraception.
 - 15% US women of childbearing age are poor; 17% have no health insurance.
- 43 % unintended pregnancies result in abortion (1.4 million a year)
 - 44% result in births the mother did not want until later or at all, and 13% result in miscarriage.
- The health risks for mothers and children when pregnancy is unintended include
 - Domestic violence, drug and alcohol use, delayed prenatal care, and low birth weight babies. One study comparing cohorts born before and after 1973 suggests unwanted children are more likely to commit crimes as young adults

Emergency contraception (EC) became available by prescription in 1999. When taken within 72 hours of unprotected or inadequately protected intercourse it is 89% effective in preventing pregnancy. EC is a contraceptive, not the abortion pill RU-486. RU-486 acts by terminating a pregnancy while EC acts by preventing pregnancy. The mechanism of action is by preventing ovulation, preventing fertilization of an egg, or rarely, preventing implantation of a fertilized egg. In 2000, EC prevented 51,000 pregnancies in the US. Women who use EC use it correctly, do not use it repeatedly, and use other methods of contraceptives and condoms at the same rate as women who have not used EC. The US abortion rate and rate of unintended pregnancies could be reduced by 50% if EC were available over the counter. The American Medical Association, the American College of Obstetricians and Gynecologists, and the FDA advisory committees agree that it is so effective and safe that it should be available over the counter.

Attachment 1
HHS 1-31-06

HOW EC WORKS



Barriers to the use of EC:

- Patient knowledge: 35% women aged 15-44 presenting to an inner city ER knew about EC and how to use it. Six % had used it.
- Timely access to the prescription: In 2001, 25% obstetricians and 14% family practitioners reported discussing EC with patients and 80% obstetricians and 36% family practitioners had prescribed EC in the previous year. In Kansas in 2001, only 43% of hospitals reported offering EC to rape victims presenting to the ER.
- Timely filling of the prescription: Some pharmacists refuse to fill prescriptions for EC. In New Mexico, a survey found that 11% pharmacies stocked EC and 53% could obtain it in 24 hours.

If you want to know more: <http://www.guttmacher.org>

EC Website <http://www.not-2-late.com> EC hotline 1-888-not-2-late

Testimony on
HB 2660

By Rep Nancy Kirk

I requested the drafting of HB 2660 for two basic reasons. One: bills requested by BSRB have frequently resulted in opposition from Social Workers. The opposition is most often based on the failure of the Board to understand the consequences to social work practitioners who are not in traditional mental health settings. Two: over 5000 social workers are licensed by BSRB and they are represented by two board members. Psychologist number 1300 and they are represented by 3 board members. The remaining two professions have about 500 each and are represented by one member respectively. I believed it was necessary to increase the number of social workers on the Board to better assure appropriate representation.

I requested an increase of 4 members to be phased in . The number of Board Members would ultimately be increased from 11 to 15. The 6 social workers would not constitute a majority of the Board. To be honest with you, there were efforts to request that social work be pulled out of the BSRB and returned to their own board. I could not support such a move, but I understood why practitioners were frustrated. This is a reasoned and rational way to address the current dis-equalizing features of the Board membership.

Protection of the public is the underlying reason for licensure. It is always important to make certain that rules and regulations do not unintentionally create problems for the practitioner that result in difficulties providing services to consumers. Increasing the number of social workers on the Board will help to assure that all regulations are applicable to all settings.

Attachment 2
HHS 1-31-06

Testimony: HB 2660
House Health and Human Services
January 31, 2006

Testimony presented by Sky Westerlund, LMSW
Kansas Chapter, National Association of Social Workers
785.354. 4804; www.knasw.com

Good afternoon. My name is Sky Westerlund. I currently serve as the Executive Director of the Kansas Chapter, National Association of Social Worker (KNASW). KNASW is the professional association for social work in Kansas. Thank you for the opportunity to express the association's support of HB 2660.

The Behavioral Sciences Regulatory Board (BSRB) licenses and regulates persons practicing social work and three other disciplines in Kansas—psychology, counseling, and marriage and family therapy. The eleven member board consists of four public members and seven professional members.

The purpose of BSRB is to protect the public by enforcing the laws and regulations that define the qualifications and professional conduct of each of the disciplines it regulates. Each discipline has its own unique and distinct practice act and regulations that must be followed. KNASW fully supports the rigorous enforcement of these laws and regulations.

There are twice as many social workers as there are all other professionally licensed persons regulated by BSRB. (5488 social workers and 2355 all other licensees)*

This list shows the number of licensees to the number of professional board members:

- Social Work: 5488 licensees and 2 professional board members (2744:1)
- Psychology: 1323 licensees and 3 professional board members (441: 1)
- Counseling: 567 licensees and 1 professional board member (567:1)
- Marriage and Family Therapy: 465 licensees and 1 professional board member (465:1)

HB 2660 is designed to ease the current extreme disproportion of the number of licensees to the number of professional board members. *Social work licensees numbering 5488 and 6 professional board members would result in a 914:1 proportion.*

KNASW thanks you for your consideration and respectfully asks you to **support** HB 2660.

*These numbers of licensees are taken from the BSRB website, www.ksbsrb.org, January 25, 2006

Attachment 3
HHS 1-31-06

HOUSE TESTIMONY
HEALTH AND HUMAN SERVICES
January 31, 2006

HB 2660

Mr. Chairman and Committee Members:

Thank you for the opportunity to testify today in regards to HB 2660. I am Phyllis Gilmore the Executive Director of the Kansas Behavioral Sciences Regulatory Board (BSRB).

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

The Behavioral Sciences Board has not had an opportunity to meet prior to today's hearing. Therefore, the Board has been unable to take a position on this bill.

However, I can state that the composition of any licensing board in Kansas is a policy decision made by the Legislature. To this point licensing Boards in Kansas have existed as protection for the public and not as representative forms of government for the various professions. If HB 2660 passes favorably from this committee, it would represent a major shift in policy by the Legislature.

In the 1999 Legislative session the composition of the BSRB was taken from five members to eleven members. This included the addition of three new professional members for three professions being newly licensed by the Board and three new public members. In a deliberative and negotiated process the additional members were added to the board. Of great importance was the addition of the public members. At that time the ratio of professional to public members on the BSRB was considered to be of major significance.

Therefore, while the BSRB recognizes that the change in composition of the board is a policy decision to be made by the Legislature, it also recognizes the delicate balance of that composition and respectfully requests careful consideration of any changes to the current structure.

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

Attachment 4
HHS 1-31-06

State of Kansas
Behavioral Sciences Regulatory Board



KATHLEEN SEBELIUS
Governor

PHYLLIS GILMORE
Executive Director

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FAX (785) 296-3112
www.ksbsrb.org

BOARD MEMBERS

January 31, 2006

Robert Eades	PUBLIC MEMBER
James Easter	PUBLIC MEMBER
Jean Hogan	SOCIAL WORK MEMBER
Wesley Jones	MARRIAGE & FAMILY THERAPY MEMBER
Richard Maxfield	PSYCHOLOGY MEMBER
Ronald McNish	PSYCHOLOGY MEMBER (Vice-Chairperson)
William Meredith	PUBLIC MEMBER
Jody Patterson	MASTER LEVEL PSYCHOLOGY MEMBER
Gary Price	PROFESSIONAL COUNSELOR MEMBER
Anna Silva-Keith	PUBLIC MEMBER (Board Chairperson)
James Williams	SOCIAL WORK MEMBER

Board members are appointed by the Governor to serve for 4 years and may be reappointed for an additional 4 year term. The Board is comprised of 7 professional members from 5 different professions and 4 public members.

HEIN LAW FIRM, CHARTERED

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Ronald R. Hein

Attorney-at-Law

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Testimony re: HB 2660
House Health and Human Services Committee
Presented by Ronald R. Hein
on behalf of
MENTAL HEALTH CREDENTIALING COALITION
January 31, 2006

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Mental Health Credentialing Coalition (MHCC). The Coalition is comprised of the members of the Kansas Association for Marriage and Family Therapy, the Kansas Association of Masters in Psychology, and the Kansas Counseling Association/Kansas Mental Health Counselors Association.

The MHCC opposes HB 2660. HB 2660 will have far reaching consequences for all licensees regulated by the Behavioral Sciences Regulatory Board (BSRB), for mental health clients, and for the general public.

The MHCC was originally established to encourage all mental health service providers and licensees of the BSRB to collaborate and cooperate on issues of importance to the mental health clients. The historical relationship between the various mental health providers (Social Workers, Psychologists, Marriage and Family Therapists, Professional Counselors, and Master Level Psychologists) was, for years, confrontational and adversarial. The result was numerous "turf battles", unfortunately played out before the Kansas Legislature. These turf battles forced legislators to choose between professional groups, while not always benefitting the public or the people served by those providers.

Since the BSRB was reconstituted, there has been a new spirit of collaboration and cooperation. The various licensees are represented on the board so all providers have developed a mutual trust and respect for the integrity and history of each other group. This is a better way of resolving disputes than bringing the disputes directly to the legislature. Over the years, the legislature has chosen collaboration over turf battles not only with the BSRB licensees, but with other healthcare providers and intra-industry disputes of all types.

HB 2660 would suggest that the BSRB, rather than being a board to regulate the licensees and to protect the interests of the public, should now become a board which represents the interests of a selected provider group, and the interests of the public should be subservient to the interests of this one provider group.

The entire rationale for a licensing board is to regulate, and to insure that the public is protected by insuring that licensees meet certain statutorily prescribed minimum standards,

Attachment 5
HHS 1-31-06

and to protect the public by providing a mechanism for disciplinary actions against licensees. The purpose of the board is **not** to protect the licensees or to further the interests of the licensees. It is especially not the purpose of the board to serve as a fiefdom by statutorily dominating the board with one single provider group.

At one time, the social workers had a board of their own. Later, the legislature saw value in consolidating various boards and agencies from an administrative perspective. Even more importantly, the legislature saw value in behavioral science professionals working together, not separately. This is especially true for these providers who have more similarities in their scopes of practice than dissimilarities.

Putting six social workers on a private professional association of social workers makes sense. Putting six social workers on a public, licensing and regulatory board involving multiple professions whose purpose is to protect the public not only does not make sense, it is a threat to the entire purpose of such a licensing and regulatory board

The MHCC and its members are fully aware that years ago there were some complaints which social workers had regarding past practices of the BSRB or its staff. We believe those concerns have been solved by changes in the board and the board staff years ago. If there are still unresolved social worker concerns regarding licensing or disciplinary issues, staffing assignments, or allocation of staff, we believe those issues should be addressed with, and can be corrected by, the BSRB. This bill is not the answer, and the legislature is not the appropriate body to address those managerial issues.

The MHCC understands the specific concerns that social workers have because of the sheer size of the membership. The MHCC believes that these problems can be solved by the BSRB. HB 2660 would unravel all the progress that has been made to date with this agency. The BSRB is the perfect body to oversee and mediate if and when provider groups need assistance with their individual concerns.

Today, it is well recognized that the multi-disciplinary approach is the best way to serve the public in the behavioral sciences and mental health field. Elimination of a structure that currently facilitates a multi-disciplinary approach will ultimately work to the detriment of the public. Cooperation among the BSRB providers will be facilitated by the existence of an all inclusive board, with appropriate balance of power, rather than a structure where one licensee is dominant relative to the entire profession.

The MHCC strongly urges the committee to defeat HB 2660, and to encourage the BSRB to review any concerns of the National Association of Social Workers that have prompted the introduction of this bill. This should be done with a view towards solving some of the concerns, while, at all times, recognizing that protection of the public should be the ultimate goal.

Thank you very much for permitting me to testify, and I will yield to questions.

January 30, 2006

The Honorable Jim Morrison
Chairman, House Health & Human Services Committee
Kansas Statehouse, 300 SW 10th Street
Topeka, KS 66612

Dear Chairman Morrison:

On behalf of the Association of Community Mental Health Centers of Kansas (ACMHCK), Inc., which represents the 29 Community Mental Health Centers (CMHCs) and affiliates in Kansas, thank you for the opportunity to provide some information and concerns on House Bill 2660. The CMHCs, as the publicly funded mental health system for community based services, are the safety net for those in need of mental health services.

House Bill 2660, if passed, would skew the balance among members on the Behavioral Sciences Review Board, which balance makes the board capable of making appropriate policy decisions for all the regulated disciplines. If the balance becomes disproportionate to one discipline, policy and oversight will be made according to majority rule.

In addition, the balance is currently maintained by not only the makeup of the board itself, but by the use of advisory committees for each discipline, reporting and recommending policies to the entire board for review.

The current system works very well, with equal representation of all disciplines, and the Association recommends maintaining the current makeup of the board.

Thank you for allowing us to express these concerns to you. If you have further questions, please feel free to call on me at (785) 234-4774.

Sincerely,

Michael J. Hammond
Executive Director

cc: Executive Directors
Sheli Sweeney, Policy Analyst

Attachment 6
HHS 1-31-06

Testimony on HB 2660

“A Bill to Increase the Number of Social Workers on the Behavioral Sciences Regulatory Board”

Presented to the Health and Human Services Committee
The Honorable Jim Morrison, Chair

January 30, 2006

Good afternoon Chairman Morrison and Members of the House Health and Human Services Committee. I am Dr. David Hill and I appreciate the opportunity to submit testimony to the committee on behalf of the Kansas Psychological Association in opposition to HB 2660, which would increase the number of social workers on the Behavioral Sciences Regulatory Board (BSRB).

We do not see how increasing the number of social workers on the BSRB will provide better protection for the public. We are not aware of situations in which having only two social workers on the BSRB has resulted in actual harm to the public or has jeopardized the safety of the public. Without evidence that the current structure has failed, this bill appears to be a solution that is looking for a problem.

Having different professions with different scopes of practices, different licensure requirements, and different levels of education and training will always present challenges when they are monitored by a multidisciplinary board such as the BSRB. If the issue that underlies this bill is one of being governed by other professions, it should be stated that while social work comprises the largest *group* of licensees, no *individual* social worker is more governed by other disciplines than any other *individual* licensee. Indeed, every group regulated by the BSRB could claim this as a problem. For example, Licensed Psychologists are the only that has a doctoral degree as the minimum level of training for licensure and psychologists operate in a very broad range of practice. Ideally, only the two doctoral level psychologists on the Behavioral Sciences Regulatory Board would review complaints against licensed psychologists. However, the legislature has decided that a multidisciplinary board is the most cost effective way to do business at this time.

The Board uses an interdisciplinary approach in which the representatives of different professions collaborate to pursue investigations and make decisions. Altering the structure of the Board without clear cause may serve to distract from the Board's primary goal of protecting the public.

If there are problems with the representation of the various professions on the BSRB they should be addressed at the Board level first. Issues of equity and balance could be referred to all of the advisory committees of the BSRB. To the best of our knowledge, this has not happened. If this is not acceptable, we suggest that perhaps the matter should be referred to interim study.

Attachment 7
HHS 1-31-06

In closing, we would like to state unequivocally that we oppose this bill unless or until there is evidence that to indicate that altering the composition of the Board will result in greater protection of the public and better licensure oversight for mental health professionals.

Thank you to the Committee for hearing our views.

Respectfully submitted,

David O Hill, PhD (Prairie Village)
Legislative Committee
Kansas Psychological Association
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