

Approved: March 9, 2006

Date

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Acting Chairperson Representative Willa DeCastro at 1:30 P.M. on March 2, 2006 in Room 526-S of the Capitol.

All members were present except Representatives Landwehr, Morrison, Goico, Mast, and Garcia, all of whom were excused.

Committee staff present:

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

Conferees appearing before the committee:

Mary Blubaugh, Executive Administrator, Kansas State Board of Nursing
Martha Butler, Nursing Director, Southwest College
Joan Felts, Chair, Kansas Committee for Nursing Education and Practice
Susan Ebertowski, Chief Nursing Officer, Wesley Medical Center, Wichita
Geraldine Tyrell, President, Bethel College Chapter, Kansas Association of Nursing Students
Shirley Ulrich, Chief Nursing Officer, Coffey County Hospital
Hannah Clouse, Nursing Student, Wichita State University
Diane Glynn, Practice Specialist, Kansas State Board of Nursing
Susan Bumstead, Legislative Chair, Kansas State Nurses Association

Others attending:

See attached list (not available on electronic copy).

The minutes for March 1 were approved.

The Chair opened the hearing on **HB 2813**.

Mary Blubaugh, Executive Administrator, Kansas State Board of Nursing, spoke in support of the bill. (Attachment 1) She commented that the bill promotes better health care in Kansas, noting that 15% of nursing students do not pass the board examination; allowing ill-prepared nurses to practice is not good health policy. She stated that because the exam can be taken electronically and results received almost immediately, the 120-day period is now irrelevant. She requested that the bill be amended to become effective December 1, 2006.

Martha Butler, Nursing Director, Southwest College, representing Kansas Association of Colleges of Nursing, testified as a proponent. (Attachment 2) She said eliminating the 120-day delay before licensing nurses increases the competency level for patient care.

Joan Felts, Chair, Kansas Committee for Nursing Education and Practice, spoke in support of the bill. (Attachment 3) She stated that the bill is in the best interest of graduating nurses as well as of patients.

Susan Ebertowski, Chief Nursing Officer, Wesley Medical Center, Wichita, testified as a proponent. (Attachment 4) She listed important considerations in support of the bill: patient safety, failure rates of graduating nurses, and costs to the institution for contingent hiring of nurses who do not pass the examination.

Geraldine Tyrell, President, Bethel College Chapter, Kansas Association of Nursing Students, spoke in support of the bill. (Attachment 5) She said her nurse training emphasized competency; by eliminating the exception, students will take the examination sooner, increasing their chances of passing. She observed that although the GN (Graduate Nurse) program is good in theory, in practice the limited supervision of GNs fails to increase competency.

Shirley Ulrich, Chief Nursing Officer, Coffey County Hospital, testified in favor of the bill. (Attachment 6) She said small rural hospitals cannot afford to hire nursing staff, train them, and then have them fail the board examination; hired nurses who fail the test not only impact the hospital negatively, but the student as well. Noting that many professions require an examination before a person is allowed to practice, she urged members to pass the bill.

Two proponents submitted written testimony: Judy Stroot, Vice President of Nursing, Via Christi Regional Medical Center, St. Francis Campus, (Attachment 7) and Karen Gibson, Vice President of Nursing, Via Christi Regional Medical Center, Wichita. (Attachment 8)

Hannah Clouse and David Overton, representing nursing students at University of Kansas, Pittsburg State University, Washburn University, and Wichita State University, spoke in opposition to the bill. (Attachment 9) They said students whom they represent have expressed support for the present GN status, and they listed the values of on-the-job training, which develop critical thinking and expand nursing knowledge.

The Chair noted other letters of opposition. (Attachment 10)

Members queried conferees. Ms. Ebertowski said the 15% failure rate does not indicate a dumbing down of nurse training, but the increased expectations of quality health care reflected in the test. She said in practice the 120-day grace period does not allow students to prepare for the exam, since they are more preoccupied with learning hospital procedures. Ms. Blubaugh said nurse license applications are accepted immediately after graduation and the transcripts arrive within 2 weeks of graduation; since the test results are available immediately, there is little time lapse before a graduate nurse can obtain a position.

The hearing was closed.

The Chair opened the hearing on **HB 2852** and **HB 2853**.

Diane Glynn, Practice Specialist, Kansas State Board of Nursing, spoke as a proponent for both bills.

(Attachment 11 and Attachment 12) She said the bill requires applicants to submit to fingerprinting and criminal background checks to be licensed by the Kansas Board of Nursing, noting that the Board is responsible to protect the citizens of Kansas. She cited examples of applicants who misrepresented themselves and background checks revealed serious criminal problems. She referenced a Council of State Governments resolution supporting the bill. (Attachment 13) She requested the bill be amended to allow the Board to set a fee commensurate with the costs of fingerprinting and background checks.

The Chair noted that David Sim, Special Agent in charge of Criminal History Records Section, Kansas Bureau of Investigation, had submitted testimony as a proponent and was available for questions. (Attachment 14 and Attachment 15)

Susan Bumstead, State Legislative Chair, Kansas State Nurses Association, spoke as an opponent of **HB 2853**. (Attachment 16) She reviewed ways the Association has cooperated with the Board of Nursing, noting the existing statute prohibiting licensure for felony convictions (Attachment 17) and commenting that the Association has no objection to criminal conviction data or fingerprint identification. However, she said including arrests, juvenile records, and expungements in the bill create stipulations that could result in unjust denial of an application. She recommended the committee amend the bill by deleting the new language (lines 18/30-31) regarding arrests, juvenile records and expungements; (Attachment 18) and clarifying what information the Board can release. (See Attorney General's opinion, Attachment 19)

A fiscal note was provided for members on both bills. (Attachment 20 and Attachment 21)

The Chair closed the hearing.

Staff Melissa Calderwood briefed the committee on **HB 2396**, saying the bill enacts new law by establishing procedures for public college students to give evidence of meningococcal vaccinations, the college institutions being required to maintain such records for students residing in on-campus housing. Answering a question, Ms. Calderwood said there was a provision in the bill for a student to opt out of providing such information. She noted a United States map showing vaccination mandates (Attachment 22) and commented that the bill received a hearing from the committee last session on March 16, 2005.

The meeting was adjourned at 2:35 p.m. The next meeting is scheduled for Monday, March 6, 2006.

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

DATE: March 2 2006

NAME	REPRESENTING
Lindsey Schuckman	Bethel College
Geraldine Tyrell	Bethel College
Hannah Closs	WSCO
David Overton	Washburn University
Alicia M. Glynn	KSBW
Shirley Ulrich	Coffey Health System
Patricia Brown	KSBW
Osam Felts	KNEP
Honey Mosback	KSBW
Martha Butler	KACN
Wendy Gunnstedt	KSWA
LINDA Lukensky	FS Home Care Assoc
Mary Belubran	KSBW
Carol L. Moore	K-NEP
Susan Ebertowski	Wesley Medical Center -
David Jim	KPSI
Sarah Tidwell	KSWA
Ellen Carson	KSWA
Lindsey Douglas	Hein Law Firm

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST

DATE: 3/2/06

NAME	REPRESENTING
<i>Jenni Rose</i>	KACCT

To: Representative Jim Morrison, Chairman
House and Human Services Committee

From: Mary Blubaugh, MSN, RN
Executive Administrator
Kansas State Board of Nursing

Re: HB 2813

Date: March 2, 2006

Good Afternoon Chairman Morrison and Members of the House and Human Services Committee. My name is Mary Blubaugh, Executive Administrator of the Kansas State Board of Nursing. I am providing testimony on behalf of the Board Members to provide support of HB 2813 which would eliminate the practice of nursing by graduates pending the results of the first licensure examination.

The mission of the Board of Nursing is to assure the citizens of Kansas safe and competent practice by nurses. The NCLEX pass rate for professional nursing (RN) programs for the state of Kansas in 2005 was 85.41%. The national average for 2005 was 87.29%. The NCLEX pass rate for practical nursing programs for the state of Kansas in 2005 was 94.55%. The national passage rate for practical nursing (PN) programs in 2005 was 89.06%. The pass rates for Kansas and the nation for the last several years are available on KSBN web site at <http://www.ksbn.org/cne/multiyearpassrates.htm> (2005 rates will be displayed on the web site after the March 7-8 Board of Nursing Meeting). These statistics show that 15% of graduate professional nurses may have practiced for up to 120 days without the minimum knowledge and skills to be licensed in Kansas.

In the past, graduate nurses did not receive the results of the NCLEX for 1 to 2 weeks after taking the examination. Since the testing vendor for NCLEX has changed, KSBN has the results within one business day (usually within 2 hours) after the exam is taken. KSBN mails the results the same day the graduate nurse takes the test, or the next business day, eliminating the 1 to 2 weeks delay in receiving the test results

Elimination of graduate status may encourage graduates to test early. Both Kansas and national data reveal a higher pass rate for graduates who take NCLEX within 60 days of graduation.

A review of the National Council States Board of Nursing *Profile of Member Boards 2002* revealed that 22 boards of nursing do not allow graduates to practice until they have passed NCLEX. Two neighboring states, Nebraska and Oklahoma, do not allow the practice of nursing by graduates.

KSBN requests this bill be amended with the effective date of December 1, 2006. This date will allow time for notification to education programs, current students, and prospective employers.

Attachment 1
HHS 3-2-06

We ask for favorable action on this legislation. Thank you for your time and consideration and I will stand for questions.

Martha Butler

To: Representative Jim Morrison, Chair, House Health and Human Services Committee
From: Kansas Association of Colleges of Nursing (KACN)
Date: February 23, 2006

The members of KACN are pleased to submit testimony in support of HB 2813. KACN represents the 14 baccalaureate and higher degree nursing programs in Kansas.

We strongly support eliminating the provision from statute 65-1124 of the Nurse Practice Act which allows graduates of professional nursing programs to practice before licensure for 120 days.

It is our belief that graduates should be licensed prior to engaging in professional nursing practice for the following reasons:

- There is an emphasis on patient safety, as evidenced by national reports such as those by the Institute on Medicine. However, at the same time, the healthcare delivery environment continues to become more complex, and the acuity level of patients in acute care hospitals continues to increase.
- The National Council of State Boards of Nursing licensure exam (NCLEX-RN), required for licensure as a professional registered nurse, measures minimal competency of the nurse to deliver nursing care.
- The time required to obtain NCLEX-RN test results has been significantly reduced. Candidates for licensure now receive their results and thus can begin practicing with a license within days of taking the exam.
- Delay in the graduate's ability to practice does not negatively impact NCLEX-RN pass rates.
- Kansas data verify that graduates who take the NCLEX-RN in a timely manner, meaning soon after graduation, have a higher pass rate (Kansas Committee for Nursing Education and Practice, 2004).
- The difficulty level of the NCLEX-RN has been raised, increasing the failure rate of new graduates.
- Graduates who fail to pass the NCLEX-RN must work in an ancillary capacity until licensed, resulting in staffing difficulties and hospital expense.

Thank you for the opportunity to provide testimony in support of HB 2813, which we believe is in the best interests of the citizens of Kansas, and their health care.

KACN member schools:

Baker University
Bethel College
Emporia State University
Ft. Hays State University
Kansas Wesleyan University
MidAmerica Nazarene University
Newman University

Pittsburg State University
Southwestern College
University of Kansas
Washburn University
Wichita State University
Tabor College
University of Saint Mary

Attachment 2
1745 3-2-06

To: Representative Jim Morrison, Chair, House Health and Human Services Committee

From: Joan Felts, Chair, Kansas Committee for Nursing Education and Practice (KNEP)

Re: Support of HB 2813

Date: February 24, 2006

KNEP, a Committee of the Kansas Organization of Nurse Leaders, is pleased to present testimony in support of HB 2813. KNEP is a twelve-member committee, six of whom represent nursing practice in Kansas, and six represent nursing education in Kansas.

We strongly support the elimination of statement (o) in statute 65-1124 that allows nursing graduates of accredited schools to practice as registered professional nurses for 120 days before they become licensed. This recommendation is preceded by a study of the issue since 2003 and is based on the following statements:

- To ensure public protection, each state requires candidates for licensure to pass an examination, National Council Licensure Examination for Registered Nurses (NCLEX-RN), which measures the competencies needed to perform safely and effectively as a newly licensed, entry-level registered nurse. The 120 day time period that Kansas currently allows does not ensure the public that the new graduate has demonstrated those competencies according to a nationally recognized standard.
- The current 120 day time period in the statute is based on a time frame in place before technology enabled graduates to take the NCLEX and receive a license within several weeks after graduation.
- The emphasis on patient safety in the health care field calls for validation of the ability to demonstrate safe practice.
- Data reviewed from eleven states that require a license before practice evidenced a mean pass rate above the national average.
- Both Kansas and national data verify that graduates who take the NCLEX-RN earlier in the 120-day time frame have a better pass rate than those who test later.
- The nursing practice members of K-NEP emphasize the cost savings for hospitals that orient new graduates who are licensed instead of orienting graduates who are not licensed and who fail the NCLEX. Additionally, orientation of a new graduate who fails the NCLEX in the 120-time period and subsequently not able to work in the position hired for exacerbates the already difficult professional nurse staffing situation.

Thank you for the opportunity to provide testimony in support of HB 2813. KNEP believes that changing the statute to require a license before practice is in the best interest of patients, graduates and the economics of health care.

*Attachment 3
HHS 3-2-06*

March 1, 2006

Jim Morrison, Chairman
Health and Human Service Committee
The Kansas State House of Representatives

Dear Chairman Morrison:

I am the Chief Nursing Officer of Wesley Medical Center in Wichita Kansas. My facility hires an average of 90 new professional nursing graduates per year and I am writing to support of House Bill 2813.

I first must admit that I had concerns about the impact of the bill on Wesley. As I've thought through the pros and cons, I support this bill for the following reasons:

Patient Safety: An unlicensed professional nursing graduate, while having graduated from a college of nursing, has not demonstrated the minimum competency required to pass the national licensure exam for Registered Nurses. The profession of nursing recognized this exam as the entrance into the profession. The complexity of patient care and the acuity of patients today requires employers to hire those nurses who demonstrate that competency.

Failure Rates: In May of 2005, WMC hired 47 new graduates. ⁴⁰Forty one passed boards meaning 7 or 15% did not. These failures raise concerns regarding the safety/competency of the independent practice of graduate nurses.

Costs to the institution: Those 7 graduates who failed the exam went through an average 10 weeks orientation, were removed from their graduate nursing positions, and moved into support (non-registered nurse) positions if they accepted them. The cost to the institution equaled approximately:

Salary of the new graduate:	\$45,360
Salary of the preceptor	\$47,520
Selection tool	\$1050
Performance Based Development System	\$1050
Extra classes (ACLS, Critical thinking Monitor interpretation)	\$2,592
Lost opportunity of recruiting others	\$45,360
Total	\$142,932

This equaled approximately \$20,419 per graduate of unnecessary expense to my institution. As a nursing administrator I believe these

Attachment 4
HHS 3-2-06

dollars could better be utilized in the recruitment, retention, and professional development of licensed nurses.

Employment: This bill does not preclude the new graduate from working but will stop healthcare facilities from placing the graduate nurse and patients in jeopardy. Our facility has developed a position called a transition tech that allows new graduates to practice appropriate skills but keeps them in a supervised role. If this bill passes, we will expand the position to the new graduate allowing them to work, have an income, but restrict them from practicing independently. You may be thinking if patient safety is critical why haven't facilities done this already? Wichita Kansas has a critical nursing shortage. We are faced with recruiting new graduates and paying them a competitive salary. If we offer the transition tech position at a lesser salary while others offer a new graduate salary, we stand to lose potential applicants. My facility must stay competitive.

I hope I have given you enough information in this testimony. I urge you and your committee to support this bill as it represents support for the safety of the citizens of Kansas.

Sincerely

Susan K. Ebertowski, MSN, MSHA, CHE, RN
Chief Nursing Officer

To: Representative Jim Morrison, Chairman
House and Human Services Committee

From: Geraldine Tyrell
President of Bethel College Chapter of the
Kansas Association of Nursing Students

Re: HB 2813

Good afternoon Chairman Morrison and committee members. Thank you for the opportunity to come speak before you today. My name is Geraldine Tyrell and I am the President of the Bethel College Chapter of the Kansas Association of Nursing Students Organization. I am here today to represent myself and my fellow nursing students of Bethel College in support of HB 2813 which would eliminate the exception in the Nurse Practice Act that allows graduate nurses to practice for up to 120 days after graduation without a license.

- Throughout our nursing education we are taught to be patient advocates and provide patient safety in all aspects of care even if this is from ourselves.
- The NCLEX is a minimum competence exam and thus GN's should not be allowed to practice without this proof of minimal competency.
- As students we have had two years of clinical experience in which to gain adequate knowledge needed to pass the NCLEX and we do not feel that an additional 120 days will greatly increase the knowledge of nursing skills in order to pass the NCLEX.
- By elimination of this exception, it will force students to take the NCLEX earlier thus increasing scores and allowing nurses to join the work force sooner.
- In theory the GN program is an excellent idea. It allows for new nurses to perfect skills under the constant supervision of a licensed RN. However, in reality this is not happening. We witness this in clinical sites everyday where we too are to be supervised by a nurse and are being told to "go ahead and administer this medication while I go check on another patient." The supervision is lacking due to understaffing and increased work loads.
- As future Proctors in healthcare settings, we would be held liable for mistakes that graduate nurses make working under our individual license.

We ask that the committee vote in favor of HB 2813 to provide safety for the citizens of the State of Kansas.

Thank You.

Attachment 5
HHS 3-2-06

Thank you for allowing me to speak to your committee today about an important issue for the state of Kansas. I am Shirley Ulrich, Chief Nursing Officer of Coffey County Hospital in Burlington Hospital. I am also a member of Kansas Committee of Nursing Education and Practice. This committee is representative of nursing practice and all levels of nursing education.

It is my privilege to testify on this bill that would require nursing licensure before practice. As the head of a nursing division of a small rural hospital, it is necessary for this bill to pass. Small rural hospitals cannot continue to absorb the costs for people that have graduated from nursing programs but fail to pass boards (called the NCLEX-RN). The costs include advertising, orientation, and nursing staff time that occur before the person takes boards for licensure. When the person fails boards, the costs of advertising, orientation and nursing staff time occurs again. The person who fails board is also now without a job. With economic constraints of a small rural hospital, we cannot have an extra person working and drawing a paycheck waiting to take the NCLEX-RN again.

The facts show:

- A delay in the graduate's ability to practice does not negatively impact the NCLEX-RN pass rates.
- Data was reviewed from eleven states who require license before practice as a professional nurse evidenced that eight had a mean pass rate above the national average.
- The time required to obtain NCLEX-RN test results has been reduced significantly from the time when the regulations were changed to allow 120 days.
- National and Kansas data verify that graduates who take the NCLEX-RN earlier rather than later have a better pass rate.
- Healthcare cost savings could be realized by hiring licensed nurses.

It is time for nursing in Kansas to be held to the same level of licensure as other professionals. Physicians and lawyers are required to pass the licensure exam before allowed to practice. In this time of marginal economics in health care in small rural hospitals, it is necessary to require licensure before nursing practice.

Thank you for this opportunity to speak to you about this important issue for Kansans. Kansans will be safer with this bill in effect.

*Attachment 6
HHS 3-2-06*

To: Representative Jim Morrison, Chair, House Health and Human Services Committee

From: Judy Stroot, RN, BSN, MA

Date: February 24, 2006

My name is Judy Stroot, Vice President of Nursing for Via Christi Regional Medical Center, St. Francis Campus, and I am pleased to present testimony in support of HB 2813.

I strongly support the elimination of statement (o) in statute 65-1124 that allows nursing graduates of accredited schools to practice as registered professional nurses for 120 days before they become licensed.

The rationale is as follows:

The national nursing licensure examination for registered professional nurses, NCLEX-RN, measures minimal competency and the hospital is assured that the individual who is caring for patients has met a national standard and is licensed to practice.

The medical and pharmacy professions require a license before practice.

The time required to obtain the NCLEX-RN test results has been dramatically reduced because of technology and nursing graduates no longer need the extended time period to become licensed.

The neighboring states of Oklahoma, Colorado and Nebraska require a license before practice for graduate nurses.

All new graduates are given an extensive orientation. Graduates who fail the NCLEX in that 120 day period cannot continue in the graduate status and must work in an ancillary capacity until licensed. Costs for orienting a new graduate range from \$25,000 to \$32,000, depending upon how costs are calculated. These are nursing costs only and do not reflect Human Resources and other associated costs. In addition to the costs, the loss of a potential nurse until the NCLEX can be retaken complicates an already difficult staffing situation.

According to the Kansas State Board of Nursing, the passing rate of Kansas nursing graduates seeking an RN license from 2000 to 2004 ranged from 78% to 87%. This is a significant statistic number for our health care system because we employ approximately 110 new graduates each year, resulting in a cost to the system of approximately \$560,000 for those who do not initially pass the NCLEX.

Thank you for the opportunity to provide testimony in support of HB 2813. I believe that changing the statute so that new graduates will have to be licensed before employment will be in the best interests of the graduates, the hospitals, and the patients.

Attachment ?
HHS 3-2-06

To: Representative Jim Morrison, Chair, House Health and Human Services Committee

From: Karen Gibson RN, BSN, MSN

Date: February 23, 2006

My name is Karen Gibson, Vice President of Nursing for Via Christi Regional Medical Center in Wichita, KS and I am pleased to present testimony in support of HB 2813.

I strongly support the elimination of statement (o) in statute 65-1124 that allows nursing graduates of accredited schools to practice as registered professional nurses for 120 days before they become licensed.

The rationale is as follows:

The national nursing licensure examination for registered professional nurses, NCLEX-RN, measures minimal competency and the hospital is assured that the individual who is caring for patients has met a national standard and is licensed to practice.

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According to the Kansas State Board of Nursing, the passing rate of Kansas nursing graduates seeking an RN license from 2000 to 2004 ranged from 78% to 87%. This is a significant statistic number for our health care system because we employ approximately 110 new graduates each year, resulting in a cost to the system of approximately \$560,000 for those who do not initially pass the NCLEX.

Thank you for the opportunity to provide testimony in support of HB 2813. I believe that changing the statute so that new graduates will have to be licensed before employment will be in the best interests of the graduates, the hospitals, and the patients.

Attachment 8
AHS 3-2-06

To: Representative Jim Morrison, Chair, House, Health, and Human Services Committee
From: Select Nursing Students in Kansas
Spokesperson: Hannah Clouse – WSU Nursing Student
Date: February 27, 2006

Nursing students from Kansas would like to submit testimony in opposition to HB 2813. The students represented are from the following colleges: Kansas University, Pittsburg State University, Washburn University, and Wichita State University.

We as a group strongly oppose HB 2813, which would eliminate graduates from professional nursing programs to practice under the supervision of Registered Nurses (RN) until licensure or 120 days maximum. However, the majority of students polled support the reduction of Graduate Nurse (GN) status from 120 days to 60 days.

The students of the above named colleges oppose HB 2813 for the following reasons:

- ◆ The time as a GN is a vital component for the transition from a nursing student to a RN
- ◆ The elimination of GN status will eliminate the opportunity of graduates from professional nursing programs to work until the passage of the NCLEX-RN exam.
- ◆ The time required to obtain NCLEX-RN test results has decreased, however the amount of time universities require to release transcripts is still delayed.
- ◆ As nursing students we are taught, “patient safety is a top priority”. Therefore, if GN’s have astute preceptors, patient safety concerns should be minimal. This period should serve as an opportunity for a GN to collaborate with the RN, making use of the knowledge and skills learned in nursing school to care for the patient.
- ◆ Before legislation is passed based patient safety concerns related to GN status, research studies should be conducted to see if a problem actually exists.
- ◆ Students recognize the benefits from taking the NCLEX-RN exam early. Therefore, reducing GN status from 120 days to 60 days would promote earlier testing dates. (However, these statistics must be viewed as just that statistics. A true research to prove that testing earlier provides better pass rates would need to include random sampling of students and the control as being the date chosen for the test. The current statistics tell us that those students that are prepared to test early are possible good test takers and therefore will have a higher pass rate whereas the students who test later and pass possible benefited from the GN status and the hands-on experience.)
- ◆ Recognizing that the NCLEX-RN tests the students’ textbook knowledge, students express that textbook knowledge is frequently reinforced in the working environment.
- ◆ We have heard many, including Governor Sebellius, state that there exists an urgent need for nurses in the state of Kansas. We should be proactive in passing legislature that encourages prospective nurses to choose the nursing field. Passing legislature that eliminates learning opportunities for students sends a negative message to current nursing students and prospective nursing students about what Kansas does for future nurses

The nursing students of the above named colleges would like to thank you for the opportunity to provide opposition to HB 2813 and ask for your consideration of reducing GN status from 120 days to 60 days.

Attachment 9
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LETTERS OPPOSED TO HB 2813

I am a senior nursing student from Washburn University and President of the student organisation writing in response to HB 2813. I wish to say that I am opposed to the bill which would eliminate GN status. As a student nurse, I look forward to the day I can graduate, walk in to a hospital the next day, get a job and continue my preparation for passing the NCLEX. I view GN status as a continuation of my preparation and accumulation of the knowledge I need to successfully pass the NCLEX. I learn more from being in the environment rather than sitting at a desk, studying an NCLEX manual in hopes to pass the boards. Working as a GN and studying for the NCLEX simultaneously, is the only way to adequately prepare myself for an acceptable performance on the NCLEX. The argument that the GN status is a risk to the public doesn't make any sense. Does passing the NCLEX suddenly endow a new nurse with the knowledge he/she was lacking the day before he/she took the test? What will be gained by eliminating the GN? If the state and nation is so worried about the nursing shortage, why should we pass a bill that doesn't favor nursing students and give them every opportunity to excel as a new graduate?

Thank you for voting against HB 2813

Koertland Beyer
President SNOW

To whom it may concern-

I am a senior nursing student from Washburn University writing in response to HB 2813. I wish to say that I am opposed to the bill which would eliminate GN status. As a student nurse, I look forward to the day I can graduate, walk in to a hospital the next day, get a job and continue my preparation for passing the NCLEX. I view GN status as a continuation of my preparation and accumulation of the knowledge I need to successfully pass the NCLEX. I learn more from being in the environment rather than sitting at a desk, studying an NCLEX manual in hopes to pass the boards. Working as a GN and studying for the NCLEX simultaneously, is the only way to adequately prepare myself for an acceptable performance on the NCLEX. The argument that the GN status is a risk to the public doesn't make any sense. Does passing the NCLEX suddenly endow a new nurse with the knowledge he/she was lacking the day before he/she took the test? What will be gained by eliminating the GN? If the state and nation is so worried about the nursing shortage, why should we pass a bill that doesn't favor nursing students and give them every opportunity to excel as a new graduate?

Thank you for voting against HB 2813

David Overton

I am Janice Jones, a nurse educator for twenty-four years at Butler Community College. In those twenty-four years I have taught over 1,900 nursing students. I am writing in opposition to HB2813, proposing to eliminate the 120-day practice exemption for graduate nurses. This bill is scheduled to be heard by the HHS committee March 2nd.

In conversations with recent graduates and experienced nurses, the "learning moments" that occur between graduation and taking the NCLEX-RN (licensing exam) improve the graduates' confidence and help solidify their nursing knowledge base. In my experience, local practice environments (El Dorado) pull the new graduate under their wings,

Attachment 10
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initiating their role in "growing the profession" with passion and dedication. Graduates are able to practice in the role of Registered Nurse side-by-side with one-on-one supervision of experienced nurses. The words "in the role of Registered Nurse" are key here. Should HB 2813 pass, graduates would be working (because most have to put bread on the table) in a nurse's aide or nurse tech position, not applying the high level critical thinking skills that are the essence of nursing. The intense practice and guidance in application of the high level critical thinking skills help prepare the graduate for successful completion of the NCLEX-RN.

As mentioned previously, graduate nurses practice side-by-side under the wings of experienced nurses. The Kansas State Board of Nursing Annual Report has no reference to evidence of errors by new graduates. I have seen no other documentation that new graduates put the public "at risk".

The pass rate in Kansas for first time candidates was 87.9% in 2004. 52.9% of repeat candidates passed the exam (KSBN Annual Report, 2004, retrieved 2/26/06 from <http://www.ksbn.org/annualreport/FY04%20Annual%20Report/AnnualRpt2004.pdf> page 42). Costs born by orientation of the new graduate who fails and then succeeds are not lost; the benefit of the expense is delayed. I know several nurses who didn't pass the first time, were retained by the employing agency with continued support for achieving success, and have been valuable Registered Nurse employees for many years. If an agency so desired under current statute, they could delay hiring graduates until boards were passed.

Data does show that NCLEX pass rates are better if the exam is taken within 60 days of graduation. I could support decreasing the practice exception from 120 to 60 days, which combines the synergistic impact of basic nursing education and the nurturing of the professional practice environment.

Thank you for your attention to my point of view. If I can be of further assistance please let me know.

Janice Jones, MN RN
1106 Delmar Drive
El Dorado, KS 67042
316-321-9919 (home)

Janice Jones, MN RN
Lead Instructor, 4th Semester Nursing
Butler Community College
901 S. Haverhill Road
El Dorado, KS 67042
316-322-3141 or 733-3141

To whom it may concern,

I am a senior nursing student at Washburn University. I am writing you in regards to HB 2813. I am opposed to the bill, which would eliminate the GN status. I do not believe that the public would be placed in danger by allowing a graduate nurse to practice for 120 days or until the results of his/hers NCLEX results are tallied.

As a student who will graduate from an accredited nursing school in the state of Kansas, I do not see that I, or my fellow classmates, would go out into the work force and go against every ethical principle and basic, safe skill that would cause harm to a patient. I value being able to use this time after graduation to work as a nurse in the "real-world" and prepare myself for the NCLEX.

As practicing as a GN, I believe this will allow others and myself the much-needed transition from practicing as a student nurse in clinical rotations to practicing in the setting as a professional nurse practices. By being considered a GN while moving through this transition, I believe that seasoned nurses will be more apt to assist me when needed in order for me to familiarize myself with the facility and the ways of the trade.

I also feel that in the wake of a nursing shortage, that eliminating GNs from the practice field increases the shortage instead of helping to minimize it. As a soon-to-be graduate nurse, I would like every opportunity to succeed as a professional nurse. To me, practicing as a GN is huge step in helping me to succeed.

Thank you for opposing HB 2813 and keeping GN status at 120 days.

A concerned nursing student,
Sarah J. Hawthorne

Mr. Morrison;

I just learned today of the proposal to eliminate the G.N. status. Having just heard of this, I have not had an opportunity to find out why this has been proposed.

In my experience as a working, full-time R.N.(and once a G.N. myself) with Via Christi Regional Med. Center in Wichita; the G.N. status, in my opinion, is a valuable way to gain more experience while waiting to take boards. In fact, I would say that it helped me pass boards. In my experience all G.N.s are supervised by a R.N. While the G.N. does have more autonomy than a nursing student, everything they do must be checked off by the supervising R.N.

If, once you graduated from an accredited nursing school, you could take the nursing boards in a more timely fashion, then the G.N. status probably would not be advantageous. But in most cases, you usually have to wait a minimum of six weeks to test. I think that is a lot of time to be wasting unless you can gain valuable work experience as a G.N..

Thank you for allowing me to express my opinion.

Daniel R. Schneweis, R.N.

1020 N. Murray Ct. Wichita, KS 67212

To: Representative Jim Morrison, Chairman
House and Human Services Committee

From: Diane Glynn, JD, RN
Practice Specialist
Kansas State Board of Nursing

Re: HB 2852

Date: March 2, 2006

Good Afternoon Chairman Morrison and Members of the House and Human Services Committee. My name is Diane Glynn, Practice Specialist for the Kansas State Board of Nursing. I am providing testimony on behalf of the Board Members to provide support of HB 2852 which will allow the Board of Nursing to ask an applicant for licensure to be fingerprinted and submit to a state and national criminal history record check.

The mission of the Board of Nursing is to assure the citizens of Kansas safe and competent practice by nurses and mental health technicians. The Board of Nursing has been working with KBI on the language of this proposed bill and it has been approved by the FBI.

The citizens of Kansas are dependent upon the Board of Nursing to conduct appropriate screening of applicants. Boards of Nursing have the responsibility of regulating nursing and a duty to exclude individuals who pose a risk to the public health and safety. In 1998 only five boards of nursing were authorized to use criminal background checks and in 2005 a National Council of State Boards of Nursing survey revealed the number had increased to 18 boards.

Teachers, banking and financial positions, and in some states physicians require criminal background checks. The Kansas judicial system received authority to require fingerprint and criminal background checks on attorneys in 2005 and the system has been implemented. Three states (Massachusetts, Missouri, and Oregon) require criminal background checks for most, if not all professional licensure applicants. Although most states ask questions about criminal convictions on licensure applications, applicants may not be motivated to be truthful. Criminal background checks provide validation of the information reported or not reported on applications.

Review of information from State Boards of Nursing who have implemented fingerprints and criminal background checks reveal that the rate of positive returns is 6-7% for RNs and 10-12% for LPNs.

On September 30, 2003 the Board of Nursing was notified by a Registered Nurse in New Mexico that he had received information from the Internal Revenue Service (IRS) that he had worked in Kansas and had not paid taxes on that income. The nurse from New Mexico had never worked in Kansas. KSBN investigated the allegations and

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collaborated with the FBI who arrested the imposter on November 18, 2003. The imposter was originally licensed in Missouri in 1985 and in Kansas in 1998. At least one agency that had employed the imposter had run a security check and it produced a "clean" record. Had fingerprints been required on application, this imposter would not have been granted a license. The imposter was a convicted felon. The nurse who was the victim of identify theft was in the Army Reserve. Fingerprints for both of these individuals were on file, and the imposter would have been exposed.

Criminal convictions are permissive grounds for discipline or denial of licensure for all boards of nursing, with the one exception for Kansas, the person-felony bar. Kansas law allows for the board to weigh and balance the conviction with mitigating factors. Not all applicants with a criminal history are or should be denied a license. Each applicant receives individual analysis. K.S.A. 65-1120 (f) currently authorizes the Board of Nursing to receive (from the KBI) criminal history record information relating to arrests and criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of applicant.

On December 4, 2005 the Council of State Governments Health Policy Task Force signed a resolution on supporting criminal background checks for nurses applying for state licenses. A copy of the resolution is attached to this testimony.

KSBN requests this bill be amended with language to allow the Board of Nursing to fix a fee in the amount necessary to reimburse the board for the cost of the fingerprints.

We ask for favorable action on this legislation. Thank you for your time and consideration and I will stand for questions.

To: Representative Jim Morrison, Chairman
House and Human Services Committee

From: Diane Glynn, JD, RN
Practice Specialist
Kansas State Board of Nursing

Re: HB 2853

Date: March 2, 2006

Good Afternoon Chairman Morrison and Members of the House and Human Services Committee. My name is Diane Glynn, Practice Specialist for the Kansas State Board of Nursing. I am providing testimony on behalf of the Board Members to provide support of HB 2853 which will allow the Board of Nursing to ask an applicant for licensure to be fingerprinted and submit to a state and national criminal history record check.

The mission of the Board of Nursing is to assure the citizens of Kansas safe and competent practice by nurses and mental health technicians. The Board of Nursing has been working with KBI on the language of this proposed bill and it has been approved by the FBI.

The citizens of Kansas are dependent upon the Board of Nursing to conduct appropriate screening of applicants. Boards of Nursing have the responsibility of regulating nursing and a duty to exclude individuals who pose a risk to the public health and safety. In 1998 only five boards of nursing were authorized to use criminal background checks and in 2005 a National Council of State Boards of Nursing survey revealed the number had increased to 18 boards.

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collaborated with the FBI who arrested the imposter on November 18, 2003. The imposter was originally licensed in Missouri in 1985 and in Kansas in 1998. At least one agency that had employed the imposter had run a security check and it produced a "clean" record. Had fingerprints been required on application, this imposter would not have been granted a license. The imposter was a convicted felon. The nurse who was the victim of identify theft was in the Army Reserve. Fingerprints for both of these individuals were on file, and the imposter would have been exposed.

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KSBN requests this bill be amended with language to allow the Board of Nursing to fix a fee in the amount necessary to reimburse the board for the cost of the fingerprints.

We ask for favorable action on this legislation. Thank you for your time and consideration and I will stand for questions.

**THE COUNCIL OF STATE GOVERNMENTS
INTERGOVERNMENTAL AFFAIRS COMMITTEE**

**Resolution Supporting Criminal Background Checks for Nurses Applying for State
Licensure**

Resolution Summary

While most interaction between nurse and patient is mutually beneficial, there is always a chance that the health care provider is capable of harm, incompetence, neglect or abuse. There is a measure of trust that the patient has in the nurse, as patients are often times vulnerable, disabled and susceptible to malicious intent. In the interest of protecting the public, nurses are held to a high standard. It is the duty of the state board of nursing to determine which individuals that are applying for licensure pose any type of risk to the public. A biometric based background check is essential to making this determination.

Traditionally, inquiries into an applicant's background have taken the form of a question on an application form, and case-by-case reviews were used to determine application status. In 1990, the first board of nursing conducted criminal background checks on licensure applicants. Soon, other boards began to explore requiring such checks. By 1996, the National Council of State Boards of Nursing (NCSBN) adopted a resolution directing NCSBN to develop resources to support member boards' decision-making regarding criminal convictions. In response to that resolution, policy recommendations and a supporting paper, *Criminal Convictions and Nursing Regulation*, were brought to the 1998 Delegate Assembly. That year a policy recommendation was adopted that recommended boards of nursing conduct criminal background checks on applicants for nursing licensure.

In 1998, NCSBN developed a paper titled *Uniform Core Licensure Requirements*, which contained conduct expectations for self-reports, including all felony convictions, all plea agreements and misdemeanor convictions of lesser included offenses arising from felony arrests. Biometric based criminal background checks were included to validate self-reports. This requirement was found to be consistent with the aforementioned policy recommendation to conduct criminal background checks on candidates for nurse licensure. In the autumn of 2004, NCSBN developed a model process for conducting criminal background checks. Today, many boards of nursing are more interested in how to conduct such checks, and support biometric based criminal background checks.

In 2005, NCSBN adopted the Model Process for Criminal Background Checks and the supporting concept paper, *Using Criminal Background Checks to Inform Licensure Decision Making*, for use by member boards. This resolution encourages states to enact legislation requiring comprehensive national criminal background checks for all applicants for nurse licensure and to work with state boards of nursing to implement this policy.

Additional Resource Information

Criminal Convictions and Nursing Regulation: A Supporting Paper
-- Cooper, G. and Sheets, V. (1998) National Council of State Boards of Nursing

Using Criminal Background Checks to Inform Licensure Decision Making
-- National Council of State Boards of Nursing (2005)

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National Council of State Boards of Nursing
www.ncsbn.org

Nurses Background Check Management Directives

- Management Directive #1: Create a sense of urgency concerning the need for criminal background checks for nursing applications and licensure as a public safety issue.
- Management Directive #2: Support efforts to better serve the public through diligent and thorough screening of all nursing applicants.
- Management Directive #3: The Council of State Governments' Health Policy Task Force will post approved resolution on The Council of State Governments' Web site and work with the National Council of State Boards of Nursing to ensure distribution to a wide audience in the states and nationally.

**THE COUNCIL OF STATE GOVERNMENTS
INTERGOVERNMENTAL AFFAIRS COMMITTEE**

**RESOLUTION SUPPORTING CRIMINAL BACKGROUND CHECKS FOR
NURSES APPLYING FOR STATE LICENSURE**

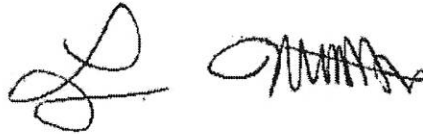
- WHEREAS,** nurses work with vulnerable populations, and it is in the interest of public safety to review nurse licensure applicants' past criminal behavior in determining whether they should be granted a license to practice nursing in a state or territory;
- WHEREAS,** applicants for nurse licensure with criminal histories may not be truthful on applications, and fingerprint based background checks are valuable in identifying past criminal behavior;
- WHEREAS,** in 1990 the California Board of Registered Nursing began to conduct fingerprint based criminal background checks, and in 1998 the National Council of State Boards of Nursing (NCSBN) reported five states were authorized to use fingerprint based criminal background checks and that number increased to 18 boards of nursing in 2005 utilizing criminal background checks. That progress has been significant, but more states need to address this issue;
- WHEREAS,** boards of nursing assure the security and confidentiality of the background information and must comply with any state or federal requirements to obtain access to state criminal background checks, making this process fair to licensure applicants;
- WHEREAS,** Public Law 92-544 provides funding to the Federal Bureau of Investigations (FBI) for acquiring, collecting, classifying, preserving and exchanging identification records with duly authorized officials of the federal government, the states, boards of nursing, cities, and other institutions;
- BE IT NOW THEREFORE RESOLVED,** that The Council of State Governments urges states to conduct biometric based criminal background checks on all nurse licensure applicants (both for initial licensure, and subsequent licensure endorsement into other states and territories) through including this provision in the jurisdiction's Nurse Practice Act;
- BE IT FURTHER RESOLVED,** that The Council of State Governments recommends that states work with their boards of nursing in developing plans to conduct nurse licensure comprehensive national criminal background checks, considering the following policy questions:

1. Assess and strategize what are the current workload and resource implications?
2. What are the questions needed on the licensure application regarding an applicant's criminal past?
3. Should criminal background checks be implemented from a point forward or with grandfathering of individuals already licensed?
4. Should temporary permits be issued for nurse licensure applicants awaiting criminal background checks?
5. What will the policy for non-readable fingerprints entail?
6. What will the appeal process be for an applicant or licensee?

Adopted this 4th Day of December, 2005, at the
CSG Annual Task Force and Committee Meeting in
Wilmington, Delaware



Governor Ruth Ann Minner
2005 CSG President



Assemblyman Lynn Hettrick
2005 CSG Chair

Support for HB 2852

Chairman Morrison and members of the House Committee on Health and Human Services:

On behalf of Director Larry Welch and the Kansas Bureau of Investigation, the following is offered in support of House Bill 2852, which will allow the Board of Nursing to conduct state and national fingerprint-based record checks on applicants for licensure.

Process by which state statutes entitle access to the federal database:

In accordance with United States Public Law 92-544, record checks of the national criminal history database may be made for noncriminal justice purposes when the check is based on fingerprints and is specifically required under state law. Noncriminal justice purposes include employment, licensing and certification.

In order for the enabling state legislation to be recognized as providing legal access to the national databases, the statute must define the persons to be checked, include a requirement that the check be fingerprint based and specify that the check be conducted through the FBI.

Such checks must be submitted to the state central repository for initial identification before being processed by the FBI. In Kansas, the state central repository is maintained by the KBI.

The KBI submits proposed bills to the FBI for validation of appropriate and sufficient language. The FBI then reviews the bill for conformance to Pub. L. 92-544 requirements and advises the KBI of the results of their review. If the FBI determines that the bill is deficient in wording or structure, corrective action is suggested so that the

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statute can be made compliant. Once the bill is approved by the FBI and passed and enrolled as a statute, the KBI informs the FBI and coordinates the start of submissions under that statute.

In November, 2005, the language of HB 2852 was sent to the FBI for this review. The FBI approved the proposed bill as written.

KBI processing of noncriminal justice record checks:

The KBI currently conducts similar noncriminal justice record checks for a variety of entitled agencies in Kansas. During 2005, the KBI processed 28,300 fingerprint records for noncriminal justice purposes (employment, certification and licensing). Of those checks, over 21,800 were submitted to the FBI for checks of the national database.

Processing of civil prints is expeditious at both the state and national level. Currently there is about a 10 calendar day turnaround from receipt at the KBI until responses are returned to the submitter. This processing time varies throughout the year, but seldom exceeds two weeks.

The KBI is prepared to provide identification services under the provisions of HB 2852, and can do so with no disruption of current services. There are no anticipated difficulties in adding the Board of Nursing to our other noncriminal justice agency customers.

David G. Sim
Special Agent in Charge
Criminal History Records Section

Support for HB 2853

Chairman Morrison and members of the House Committee on Health and Human Services:

On behalf of Director Larry Welch and the Kansas Bureau of Investigation, the following is offered in support of House Bill 2853, which will allow the Board of Nursing to conduct state and national fingerprint-based record checks on applicants for licensure.

Process by which state statutes entitle access to the federal database:

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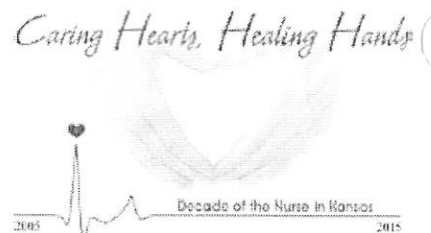
Processing of civil prints is expeditious at both the state and national level. Currently there is about a 10 calendar day turnaround from receipt at the KBI until responses are returned to the submitter. This processing time varies throughout the year, but seldom exceeds two weeks.

The KBI is prepared to provide identification services under the provisions of HB 2853, and can do so with no disruption of current services. There are no anticipated difficulties in adding the Board of Nursing to our other noncriminal justice agency customers.

David G. Sim
Special Agent in Charge
Criminal History Records Section



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LEN CARSON, PH.D., A.R.N.P., B.C.
RESIDENT

THE VOICE AND VISION OF NURSING IN KANSAS

TERRI ROBERTS, J.D., R.N.
EXECUTIVE DIRECTOR

Terri Roberts J.D., R.N.
troberts@ksna.net
March 2, 2006

H.B. 2853 Background Checks for Professional and Practical Nurses

Representative Jim Morrison and members of the House Health and Human Services Committee, my name is Terri Roberts J.D., R.N., and I am the Executive Director of the Kansas State Nurses Association. KSNA is the professional organization for registered nurses in Kansas.

KSNA has been very active in monitoring and dialoguing with the Kansas State Board of Nursing Investigative Committee since they started holding "policy discussions" in an open meeting during each of the regularly scheduled Board meetings. Both members of the KSNA Council on Practice and Council on Economic and General Welfare have made presentations to the investigative committee on various aspects of the "investigative and disciplinary process" as well as requesting information about practice patterns that the Board has identified as inappropriate or unsafe by licensed nurses.

KSNA has a rich history of supporting the Board of Nursing in their role of "protection of the public". Licensees are required to self-report felonies and misdemeanors on their initial and every two year renewal forms. In 1977 KSNA introduced and lobbied for a statutory change in the Nurse Practice Act that was passed and prohibits individuals with *Article 34, Chapter 21 Felony Convictions* from being licensed as nurses in Kansas. This followed a highly publicized conviction of a PSU senior nursing student, with a previous felony conviction that murdered a PSU female student. At the time the legislature passed this absolute prohibition Kansas was only the second state to add such a restriction for licensure. It reads as follows and is in K.S.A. 65-1120;

no license, certificate of qualification or authorization to practice nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced registered nurse practitioner or registered nurse anesthetist shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto;

See the attachment labeled *Felony Restrictions on RN Licensure in Kansas*. We print this list regularly in **The Kansas Nurse** to insure that educators and others are aware of this statutory prohibition.

In addition to supporting the role of the Board in protecting the public, we have an obligation to insure that the Board is following the statutes and is consistent and fair in matters related to licensure, discipline and affording licensees their legal rights.

For the past six years KSNA has requested, provided information and participated in dialogue with the BON Investigative Committee towards the establishment of a decision making model that would be used by the agency when reviewing matters involving licensure restrictions and discipline disposition. To date the Board has not yet adopted a model, although immediately before and since the Kansas Legislative

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Further, audit they have adopted several policies that guide and document the "process" that they use in reviewing complaints and disciplinary cases. These have been helpful, in providing some level of assurance that disciplinary matters are considered according to the same process, however, they fail to insure that similar cases from year to year are treated equally with commensurate disposition. This includes disposition of licensure applications with self-reported criminal histories.

H.B. 2358 contains new language that would authorize the Kansas Board of Nursing to obtain not only criminal convictions, but arrests, expungements and juvenile records from the Federal Bureau of Investigation for all licensees and applicants. **KSNA has no objection to the agency receiving criminal conviction data, or using fingerprints for proper identification.**

The Nurse Practice Act statute provides in K.S.A. 65-1120 that the Board of Nursing may "revoke, limit, or suspend" a license if a licensee is found:

"to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust".

We do however, have concerns about the Board obtaining juvenile records, expunged records and arrest records. They currently have statutory authority to obtain from the KBI pursuant to KSA 65-1120 (f)

"(f) Criminal justice information. The board upon request shall receive from the Kansas bureau of investigation such criminal history record information relating to arrests and criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of and applicants for licensure by the board."

KSNA cannot support the access to *arrest records* because it must be assumed that they will be construed as prejudicial in determining whether a licensee should be granted or retain a license. Licensees and/or applicants would be forced to defend an "arrest" that might be aged, a false accusation and in most cases a challenge to defend.. We cannot support that licensees/applicants are considered guilty and have to defend themselves under these circumstances. Only criminal convictions should be obtained by the agency.

Juvenile records are currently protected under separate statute which prohibits their release unless the entity has statutory authority. We have not heard a compelling argument by the Board of Nursing in any of their discussions about fingerprinting and background checks why juvenile records should be considered by the Board in awarding licensure. Expungements are slightly different. There is a laundry list in K.S.A. 21-4619 the Expungement Statute of those entities that can obtain expungement data, and there appear to be no categories of licensed health professionals currently in that list and this may be the first to be added. Expungements generally require 3-5 years of no criminal conviction, require going to court to ask for the expungement and heinous felonious crimes cannot ever be expunged. Again, we have heard no compelling argument for obtaining these records.

In addition to these comments about the proposed language in H.B.2853 we ask that the committee review another area of the Kansas Nurse Practice Act that is germane to the rights of licensees and applicants of the Board in matters relating to discipline and licensure. K.S.A. 65-1135 currently by statute prohibits the Board from disclosing matters in a pending investigation except in three circumstances:

65-1135. Complaint or information relating to complaint confidential; exceptions.

(e) complaint or report, record or other information relating to the investigation of a complaint at _____ person licensed by the board which is received, obtained or maintained by the board is confidential and shall not be disclosed by the board or its employees in a manner which identified or enables identification of the person who is the subject or source of such information except:

- (1) In a disciplinary proceeding conducted by the board pursuant to law or in an appeal of the order of the board entered in such proceeding, or to any party to such proceeding or appeal or such party's attorney;
- (2) to the proper licensing or disciplinary authority of another jurisdiction, if any disciplinary action authorized by K.S.A. 65-1120 and amendments thereto has at any time been taken against the licensee or the board has at any time denied a license certificate or authorization to the person; or
- (3) to the person who is the subject of the information, but the board may require disclosure in such a manner as to prevent identification of any other person who is the subject or source of the information.

(b) This section shall be part of and supplemental to the Kansas nurse practice act.

History: (L. 1994, ch. 218, § 1; L. 2000, ch. 113, § 3; L. 2001, ch. 161, § 7; July 1.)

Licensee for a number of years have expressed concern about the Boards disclosure outside the boundaries of this statute. This statute has been interpreted by the Board that they may release information to potential employers (faculty) information related to pending investigations. We and attorney's representing licensees have viewed this as a violation of statute. The inappropriate disclosure of information by the Board of a pending investigation was the topic of a KSNA complaint letter filed with the Attorney Generals Office in June of 2005. The letter was accompanied with documentation that information was shared in violation of the statute. The AG's office (which provides an Assistant AG to represent and advise the agency) sent a response in December of 2005 indicating that the AG's office had no jurisdiction and that the only recourse for licensees it to go to District Court. We believe that the legislature should make this statute more clear to avoid licensees having to seek judicial review in order to have their rights upheld by the licensing agency.

KSNA asks this committee to amend H.B. 2853 by

1. Deleting from KSA 65-1120 (f) the words "to arrests and" so that **only** criminal convictions would be obtained from the KBI by the Board of Nursing

Current Statute:

"(f) Criminal justice information. The board upon request shall receive from the Kansas bureau of investigation such criminal history record information relating to arrests and criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of and applicants for licensure by the board."

2. Deleting from the new language in H.B. 2853 on lines 18 and 30-31 the references to arrests, juvenile records and expungements. See Ballon on next page.

3. Clarify in K.S.A. 65-1135 that the Board can only release investigative information to the licensee and during a formal disciplinary hearing and is strictly prohibited from releasing to anyone, anything but final orders of the Board on matters of discipline. We believe that these protections on behalf of the licensee must be clarified in the statute.

Thank you for your consideration.

References for Testimony

KSA 65-1120. Denial, revocation, limitation or suspension of license or certification of qualification; costs; professional incompetency defined.

(a) Grounds for disciplinary actions. The board may deny, revoke, limit or suspend any license, certificate of qualification or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced registered nurse practitioner or as a registered nurse

applicant that is issued by the board or applied for under this act or may publicly or privately censure a licensee or holder of a certificate of qualification or authorization, if the applicant, licensee or holder of a certificate of qualification or authorization is found after hearing to be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing; (1)
(2) to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120 no license, certificate of qualification or authorization to practice nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced registered nurse practitioner or registered nurse anesthetist shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto; ...

Felony Restrictions on RN Licensure in Kansas

The Kansas Nurse Practice Act was amended in 1997 to prohibit licensure of RNs, LPNs or LMHTs who have a criminal conviction of felony crimes against persons. This is the list of felonies referenced in KSA 65-1120 which reads as follows:

65-1120.

(a) *Grounds for disciplinary actions.* The board may deny, revoke, limit or suspend any license, certificate of qualification or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced registered nurse practitioner or as a registered nurse anesthetist that is issued by the board or applied for under this act or may publicly or privately censure a licensee or holder of a certificate of qualification or authorization, if the applicant, licensee or holder of a certificate of qualification or authorization is found after hearing:

(2) to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120 no license, certificate of qualification or authorization to practice nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced registered nurse practitioner or registered nurse anesthetist shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto;

ARTICLE 34, CHAPTER 21 FELONY CRIMES SORTED NUMERICALLY BY STATUTE NUMBER

REFERENCE	DESCRIPTION	REFERENCE	DESCRIPTION
21-3401	Murder in the First Degree	21-3419a	Aggravated Criminal Threat; e" \$25,000 loss of productivity
21-3401	Murder in the First Degree; Attempt (K.S.A. 21-3301)	21-3420	Kidnapping
21-3401	Murder in the First Degree; Conspiracy (K.S.A. 21-3302)	21-3421	Aggravated Kidnapping
21-3401	Murder in the First Degree; Solicitation (K.S.A. 21-3303)	21-3422(c)(2)	Interference With Parental Custody in all other cases
21-3402(a)	Murder in the Second Degree (intentional)	21-3422(a)(b)	Aggravated Interference With Parental Custody
21-3402(b)	Murder in the Second Degree (reckless)	21-3426	Robbery
21-3403	Voluntary Manslaughter	21-3427	Aggravated Robbery
21-3404	Involuntary Manslaughter	21-3428	Blackmail
21-3406(a)(1)	Assisting Suicide (force or duress)	21-3435(1)(2) or (3)	Exposing Another to a Life Threatening Communicable Disease
21-3406(a)(2)	Assisting Suicide	21-3437(a)(1)	Mistreatment of a Dependant Adult - physical
21-3410	Aggravated Assault	21-3437(a)(2)*	Mistreatment of a Dependant Adult - aggregate amount \$25,000 or more
21-3411	Aggravated Assault on LEO	21-3437(a)(2)*	Mistreatment of a Dependant Adult - aggregate amount at least \$500 but < \$25,000
21-3412a	Domestic Battery; third or subsequent conviction w/in last 5 years (b)(3)	21-3437(a)(2)*	Mistreatment of a Dependant Adult - aggregate amount is < \$500 and committed by a person convicted w/5 years of this crime two or more times
21-3413(a)(2)	Battery Against a Correctional Officer	21-3438(a)	Stalking
21-3413(a)(3)	Battery Against a Juvenile Correctional Facility Officer	21-3438(b)	Stalking when the victim has an order pursuant to the protection from stalking act, a Temporary Restraining Order or an Injunction in effect against the offender
21-3413(a)(4)	Battery Against a Juvenile Detention Facility Officer	21-3438(c)	Stalking when the offender has a previous conviction w/in 7 years for stalking the same victim
21-3413(a)(5)	Battery Against a City/County Correctional Officer/Employee	21-3439	Capital Murder
21-3414(a)(1)(A)	Aggravated Battery - intentional, great bodily harm	21-3440(a)	Injury to a Pregnant Woman in the Commission of a Felony
21-3414(a)(1)(B)	Aggravated Battery - intentional, bodily harm	21-3440(c)	Injury to a Pregnant Woman in the commission of KSA 21-3412 (battery), or KSA 21-3413(a)(1) (battery on LEO), or KSA 21-3412a(b)(1) or (b)(2) (domestic battery statute), or KSA 21-3517 (sexual battery)
21-3414(a)(1)(C)	Aggravated Battery - intentional, physical contact	21-3441(c)(1)	Injury to a Pregnant Woman by Vehicle- committing a violation of 8-1567
21-3414(a)(2)(A)	Aggravated Battery - reckless, great bodily harm	21-3442	Involuntary Manslaughter in the Commission of a DUI
21-3414(a)(2)(B)	Aggravated Battery - reckless, bodily harm		
21-3415(a)(1) or (3)	Aggravated Battery on LEO - intentional, great bodily harm or w/motor vehicle		
21-3415(a)(2)	Aggravated Battery on LEO - bodily harm or physical contact; deadly weapon		
21-3419(a)(1)	Criminal Threat		
21-3419(a)(2)	Criminal Threat (<i>adulterate or contaminate any food, raw agricultural commodity, beverage, drug, animal feed, plant or public water supply</i>)		
21-3419a	Aggravated Criminal Threat; < \$500 loss of productivity		
21-3419a	Aggravated Criminal Threat; > \$500 but < \$25,000 loss of productivity		

HOUSE BILL No. 2853

Committee on Federal and State Affairs

2-7

9 AN ACT concerning the board of nursing; relating to licensure of pro-
10 fessional and practical nurses; concerning fingerprinting and criminal
11 history records checks.

12

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

14 Section 1. (a) The board of nursing may require an applicant for
15 licensure as a professional nurse or practical nurse in this state to be
16 fingerprinted and submit to a state and national criminal history record
17 check. The fingerprints shall be used to identify the applicant and to
18 determine whether the applicant has a record of criminal arrests and
19 convictions in this state or other jurisdictions. The board of nursing is
20 authorized to submit the fingerprints to the Kansas bureau of investiga-
21 tion and the federal bureau of investigation for a state and national crim-
22 inal history record check. The board of nursing may use the information
23 obtained from fingerprinting and the applicant's criminal history for pur-
24 poses of verifying the identification of any applicant and in the official
25 determination of character and fitness of the applicant for any licensure
26 to practice professional or practical nursing in this state.

27 (b) Local and state law enforcement officers and agencies shall assist
28 the board of nursing in taking and processing of fingerprints of applicants
29 seeking admission to practice professional or practical nursing in this state
30 and shall release all records of an applicant's arrests, convictions, expun-
31 gements and juvenile records to the board of nursing.

32 Sec. 2. There is hereby created in the state treasury the criminal
33 background and fingerprinting fund. All moneys credited to the fund shall
34 be used to pay the Kansas bureau of investigation for the processing of
35 fingerprints and criminal background checks for the board of nursing.
36 The fund shall be administered by the board of nursing. All expenditures
37 from the fund shall be made in accordance with appropriation acts upon
38 warrants of the director of accounts and reports issued pursuant to vouch-
39 ers approved by the president of the board or a person designated by the
40 president.

Sec. 3. This act shall take effect and be in force from and after its
42 publication in the statute book.

Kansas State Nurses Association Proposed Amendments
March 2, 2006

Attachment 18
HHS 3-2-06

~~criminal arrests and~~ (Delete this language)

~~arrests, convictions, expun-~~

~~gements and juvenile records~~ (Delete this language)



KANSAS STATE NURSES ASSOCIATION
Board of Directors Meeting
February 25, 2006
Agenda Item # 2.3

STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

PHILL KLINE
ATTORNEY GENERAL

120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.KSAG.ORG

December 8, 2005

Janice Jones, R.M., M.N., C.N.S., President
Kansas State Nurses Association
1208 SW Tyler
Topeka, Kansas 66612-1735

Re: Complaint and Request for Investigation - KSBN

Dear Ms. Jones,

I am writing in response to your June 28, 2005, letter of complaint and request for an investigation into the Kansas State Board of Nursing (KSBN) staff's interpretation and implementation of K.S.A. 65-1135. I regret to inform you that we cannot provide the assistance you requested.

While the Attorney General's office does have investigatory authority into certain record-related issues – pursuant to the Kansas Open Records Act, K.S.A. 45-215 *et seq.* – the office does not have *carte blanche* jurisdiction to oversee or enforce how specific state agencies, boards or commissions apply or interpret record-related laws pertaining exclusively to them. Rather, that authority rests with the specific agency, board or commission to which the pertinent record-related laws apply. Essentially, how a specific agency, board or commission interprets such provisions is a matter of policy; accordingly, such interpretations may be subject to challenge pursuant to the act for judicial review and civil enforcement of agency actions, K.S.A. 77-601 *et seq.*

In terms of the KSBN staff's interpretation of K.S.A. 65-1135, therefore, and whether the statute allows the board to disclose that an investigation is pending – even before a formal proceeding has been initiated - the Attorney General's office has no basis to investigate or instruct KSBN on how the statute should be applied or interpreted. Furthermore, it would seem that the appropriate recourse for a nurse who believes the KSBN staff wrongly disclosed that an investigation was pending against the nurse would be to bring a private cause of action against KSBN.

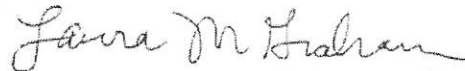
Attachment 19
HHS 3-2-06

Janice Jones
Page 2

I hope this information is helpful. If you have any questions or concerns or wish to discuss this matter further, please feel free to contact our office.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL
PHILL KLINE



Laura M. Graham
Assistant Attorney General

LMG:jm

cc: Mary Blubaugh, KSBN Executive Administrator
Judith Hiner, KSBN President



1208 SW TYLER
TOPEKA, KANSAS 66612-1735
785.233.8638 * FAX 785.233.5222
www.nursingworld.org/snas/ks
THE VOICE AND VISION OF NURSING IN KANSAS

JANICE JONES, R.N., M.N., C.N.S.
PRESIDENT

TERRI ROBERTS J.D., R.N.
EXECUTIVE DIRECTOR

June 28, 2005

Laura Graham, Assistant Attorney General
Attorney General's Office, Memorial Hall
120 SW 10th Street, 2nd Floor
Topeka KS 66612

Dear Ms. Graham,

In March of 2005, officials of the KANSAS STATE NURSES ASSOCIATION, in conversation with Kansas State Board of Nursing staff and an official, expressed concerns about the KSBN staff's interpretation and implementation of KSA 65-1135. The KSNA Board of Directors recently reviewed correspondence shared with our office that appears to defend conduct by the Kansas State Board of Nursing staff that may violate this statute.

KSNA files this letter as a formal complaint of KSBN staff violating KSA 65-1135. Our interpretation of the statute is that all matters, including the fact that an investigation is pending, are confidential

- until a formal proceeding is initiated (KSA 65-1135(a)(1));
- final action is taken by the agency authorizing the sharing of agency action on the license (KSA 65-1135(a)(2)); or
- at any time to the licensee being investigated (KSA 65-1135(a)(3)),

and that these are the only criteria and thresholds for release of confidential information related to a complaint or investigation. These exceptions reflect elements of fundamental fairness that is important for licensees, and maintains the integrity of due process afforded to licensees in the investigative phase of a potential disciplinary proceeding.

Statistics from the Board of Nursing indicate that, after the investigation phase, in 2003, 160 cases (32%) were inactivated; in 2004, 157 cases (32%) were inactivated, and to date, 58 of 2005 cases (51%) have been inactivated. With one third of all case files inactivated, it is very important that all protections afforded by statute be upheld.

Here is the circumstance (documented) that we believe to be in violation:

The Director of a Kansas community college received a telephone call early this spring from a KSBN Education Specialist, that a RN licensee, a newly-hired part-time faculty member, was "under investigation by the KSBN for possible drug impairment and other allegations." KSBN staff made this call following receipt of a "Faculty Qualification Form," required of all schools when a potential new faculty member is hired.

After hearing and confirming that this conversation had taken place, the licensee affected contacted her attorney and requested that he send a letter to the KSBN, requesting compliance with KSA 65-1135 in the future.

CONSTITUENT OF THE AMERICAN NURSES ASSOCIATION

19-3

KSNA elected and appointed officials have received several anecdotal stories and complaints about just such conduct by KSBN staff privy to confidential investigative files and information; however, because information was shared verbally by the KSBN staff with certain individuals (employers, licensees, co-workers, other states' licensing boards), KSNA never had legitimate evidence that the statute was being violated. The licensees in receipt of the phone calls and disclosed information, for the most part, are hesitant to call the KSBN action into question because of their regulatory role and retaliatory reputation. These individuals have, however, called and reported what they knew or suspected about such disclosures to KSNA elected officials and staff.

In the past couple of months, the interpretation of KSA 65-1135 by the KSBN has been questioned by attorneys representing RN licensees and RN's themselves. We believe this matter to be very important to licensees of the Kansas State Board of Nursing. The KSBN staff clearly differ from KSNA in their interpretation and implementation of this statute.

We respectfully request a full and complete investigation into this matter by your office. This may include the licensee's case mentioned previously, interviews with Kansas School of Nursing Deans/Directors who have received phone calls in the past from KSBN staff disclosing confidential investigative information, and Boards of Nursing staff in other states.

We would add that a legislator had a bill introduced in the 2005 session (House Bill 2149) to add a new (a)(4) to KSA 65-1135, which would read:

"Section 1. K.S.A. 65-1135 is hereby amended to read as follows: 65-1135.

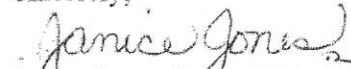
(a) Any complaint or report, record or other information relating to the investigation of a complaint about a person licensed by the board which is received, obtained or maintained by the board is confidential and shall not be disclosed by the board or its employees in a manner which identified or enables identification of the person who is the subject or source of such information except: ...

(4) to a prospective employer of the person who is the subject of the information. The board may require such prospective employer to submit documentation verifying that the person is seeking employment which such employer or a release to disclose such information from the person who is the subject of the information."

It is clear that a legislator (and the Revisor) didn't believe sharing now-confidential investigative information with prospective employers was permitted, hence the bill aimed at expanding the conditions in which it could be disclosed.

KSNA officials' discussions and dialogue on HB 2149, the public policy involved, and protecting the rights of licensees, has heightened our awareness of this statute. It is imperative that the profession and regulators be in concert on this statute's meaning, interpretation, and implementation. Unfortunately, this is not the case, and we seek clarity and compliance. Thank you for your attention to this matter.

Sincerely,



Janice Jones, R.N., M.N., C.N.S., President
1106 Delmar Drive El Dorado KS 67042

cc: Mary Blubaugh, Executive Administrator, KSBN
Judith Hiner, President, KSBN
KSBN Board Members
KSNA Board of Directors and Council on Practice

enclosures: List of licensee/parties referenced
Letter from Larry Michel (Redacted)
Letter from Betty Wright (Redacted)
Investigative Committee Disposition of Cases (by calendar year)

LAW OFFICES
KENNEDY BERKLEY YARNEVICH & WILLIAMSON

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GEORGE W. YARNEVICH
TOM A. WILLIAMSON
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SALINA, KANSAS 67402-2567

ROBERT B. BERKLEY
(1926-1996)

TELEPHONE (785) 825-4674

FAX (785) 825-5936

April 13, 2005

Betty Wright
Kansas State Board of Nursing
900 S.W. Jackson, Suite 1051
Topeka, KS 66612-1230

Re: [REDACTED]

Dear Betty:

I am writing this letter to address a concern in connection with the above matter. We have previously discussed this case and you are aware that I represent [REDACTED]

[REDACTED] has recently learned that [REDACTED] of the State Board told [REDACTED] Community College that [REDACTED] was being investigated for possible drug impairment. First, it is not my understanding that the Board of Nursing is investigating [REDACTED] for possible impairment. Second, we do not believe that it is appropriate for this information to be revealed. It is my understanding that the Nurse Practice Act requires that investigative files be kept confidential until such time as they become a public record. Accordingly, I would ask that you check into this situation and advise your client to cease disclosing confidential information to third parties.

Please let me know if you have any questions. Otherwise, we appreciate your prompt attention to this matter.

Sincerely,

KENNEDY BERKLEY YARNEVICH
& WILLIAMSON, CHARTERED

By: 

Larry G. Michel

lmichel@kenberk.com

LGM:w1



KANSAS STATE BOARD OF NURSING
MARY BLUBAUGH MSN, RN, EXECUTIVE ADMINISTRATOR

KATHLEEN SEBELIUS, GOVERNOR

April 26, 2005

Larry Michel
KENNEDY BERKLEY YARNEVICH
& WILLIAMSON, CHARTERED
119 West Iron Ave, Suite 710
PO Box 2567
Salina, KS 67402-2567

Re: your client [REDACTED]

Dear Mr. Michel:

Thank you for your letter written April 13, 2005 regarding your client [REDACTED]. The letter stated that "[REDACTED] of the State Board told [REDACTED] Community College that [REDACTED] was being investigated for possible drug impairment."

The facts are that [REDACTED] is required to reveal pending investigations to nursing schools who inquire about this information if the nurse is applying for a position on the faculty of a nursing school. She always relays that an investigation is pending, what the brief description of the case is, and then states that the school should contact the potential faculty member.

The information that the board has a pending investigation would be released, along with the type of case being investigated. [REDACTED] would have also indicated that the case or cases are pending and her license is unencumbered.

The contents of the investigative case file are confidential, unless requested by other licensing boards, see K.S.A. 65-1135, however, the fact that there is an investigation is not confidential.

If you have questions, I can be reached at 785-296-7047.

Sincerely,

Betty Wright
Assistant Attorney General
Kansas Board of Nursing

COPY

LANDON STATE OFFICE BUILDING, 900 SW JACKSON ST., STE 1051, TOPEKA, KS 66612-1230

Voice 785-296-4929 Fax 785-296-3929 www.ksbn.org

19-6

INVESTIGATIVE COMMITTEE
DISPOSITION OF CASES
(by calendar year)

	1999	2000	2001	2002	2003	2004	2005 to date
	78	160	96	104	139	149	51
TORY - LICENSE IF PASSES EXAM	34	46	16	5	3	8	0
DISCIPLINE - INACTIVATE	10	40	52	36	21	8	7
INVESTIGATION	16	17	3	11	4	9	0
PROVIDER PROGRAM DIRECT	17	24	28	49	72	62	14
	15	0	0	0	0	0	0
AGREEMENT	79	84	155	187	111	152	20
AGREEMENT	43	23	59	33	17	12	7
HEARING	64	64	74	110	108	76	12
AGREEMENT	42	4	0	1	0	0	0
RENT APPLICATION HISTORY - LICENSE	10	5	5	7	1	0	0
	21	15	31	23	9	10	0
DENIAL	27	1	5	3	11	9	2
	456	483	524	569	496	495	113

19-61

19-7

March 1, 2006

The Honorable Jim Morrison, Chairperson
House Committee on Health and Human Services
Statehouse, Room 143-N
Topeka, Kansas 66612

Dear Representative Morrison:

SUBJECT: Fiscal Note for HB 2852 by House Committee on Federal and State
Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2852 is respectfully submitted to your committee.

HB 2852 would allow the Board of Nursing to require a person applying for a mental health technician license to be fingerprinted and submit to a state and national criminal record check. The fingerprints would be submitted to the Kansas Bureau of Investigation (KBI) and the Federal Bureau of Investigation. The Board would use the information from the record check to determine whether a person is suitable to practice as a mental health technician in this state. HB 2852 would require local and state law enforcement agencies to assist in taking and processing the fingerprints. These agencies would be required to release all records of an applicant's arrests, convictions, expungements, and juvenile records to the Board. Finally, the bill would create the Criminal Background and Fingerprinting Fund in the Board of Nursing. This fund would be used to pay the KBI for the processing of the fingerprints and background checks.

The Board of Nursing states that this bill would increase its revenues to the newly created Criminal Background and Fingerprinting Fund. Although it is not specifically provided in the bill, the Board assumes that it can pass on the record check costs in the form of licensing fees. All of these revenues would be paid to the KBI. Because Kansas does not have any schools that graduate students with a mental health technician degree and the Board has authorized only one person with this profession in the last five years to practice in this state, the Board estimates it would absorb any additional workload within its existing resources.

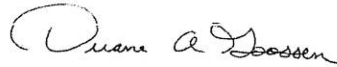
Attachment 20
HHS 3-2-06

The Honorable Jim Morrison, Chairperson
March 1, 2006
Page 2—2852

As stated above, this bill is estimated to generate a negligible amount of record checks. Therefore, the KBI states that any additional record checks would be absorbed within existing staff and the fees collected would be used to process the background checks and to pay the federal government for the federal checks.

Although the bill would require law enforcement agencies to assist in taking and processing fingerprints, this bill would not have a fiscal effect on their operating expenditures because the bill is estimated to require a small number of fingerprints that would need to be taken. Any fiscal effect associated with enactment of HB 2852 is not accounted for in *The FY 2007 Governor's Budget Report*.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Mary Blubaugh, Board of Nursing
Linda Durand, KBI
Judy Moler, Kansas Association of Counties
Kimberly Winn, League of Kansas Municipalities

February 28, 2006

The Honorable Jim Morrison, Chairperson
House Committee on Health and Human Services
Statehouse, Room 143-N
Topeka, Kansas 66612

Dear Representative Morrison:

SUBJECT: Fiscal Note for HB 2853 by House Committee on Federal and State
Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2853 is respectfully submitted to your committee.

HB 2853 would allow the Board of Nursing to require a person applying for a professional or practical nursing license to be fingerprinted and submit to a state and national criminal record check. The fingerprints would be submitted to the Kansas Bureau of Investigation (KBI) and the Federal Bureau of Investigation (FBI). The Board would use the information from the record check to determine whether a person is suitable to practice nursing in this state. HB 2853 would require local and state law enforcement agencies to assist in taking and processing the fingerprints. These agencies would be required to release all records of an applicant's arrests, convictions, expungements, and juvenile records to the Board. Finally, the bill would create the Criminal Background and Fingerprinting Fund in the Board of Nursing. This fund would be used to pay the KBI for the processing of the fingerprints and background checks.

Last year, the Board of Nursing processed 3,225 new applicants for professional nurses and practical nurses. The Board currently processes these applications, and the bill would require the Board to determine whether the applicant is fit to practice in this state based on the record check. The Board states that this bill would increase its operating expenditures; however, the Board estimates it could absorb any additional workload within its existing resources and staff. The Board states that this bill also would increase its revenues to the newly created

Attachment 21
HHS - 3-2-06


The Honorable Jim Morrison, Chairperson
February 28, 2006
Page 2—2853

Criminal Background and Fingerprinting Fund. Although it is not specifically provided in the bill, the Board assumes that it can pass on the record check costs in the form of licensing fees. The KBI charges \$54 for all record checks; therefore, the Board would pay the KBI \$174,150 (\$54 per check X 3,225 applications).

As stated above, this bill is estimated to increase the amount of background checks that the KBI would perform. The KBI states that any additional record checks would be absorbed within existing staff and the background check fees that would be collected would be used to process the record checks and to pay the federal government for the federal checks. The KBI currently charges \$54 for record checks. The KBI keeps \$30 to pay for its expenditures and pays \$24 to the FBI. The KBI would receive \$174,150 from the Board (\$54 per check X 3,225 applicants). Of that amount, the KBI would keep \$96,750 (\$30 X 3,225 applications) and pay \$77,400 (\$24 X 3,225 applications) to the FBI.

HB 2853 would require law enforcement agencies to assist in taking and processing fingerprints. The passage of HB 2853 could slightly increase the amount of fingerprints local and state law enforcement agencies would have to take and process. Therefore, the bill could negligibly increase the agencies' expenditures. However, there is no information to estimate the increased cost. No one agency would likely see an increase that could not be absorbed within existing resources because the fingerprints would be taken at different agencies throughout the state. Any fiscal effect associated with enactment of HB 2853 is not accounted for in *The FY 2007 Governor's Budget Report*.

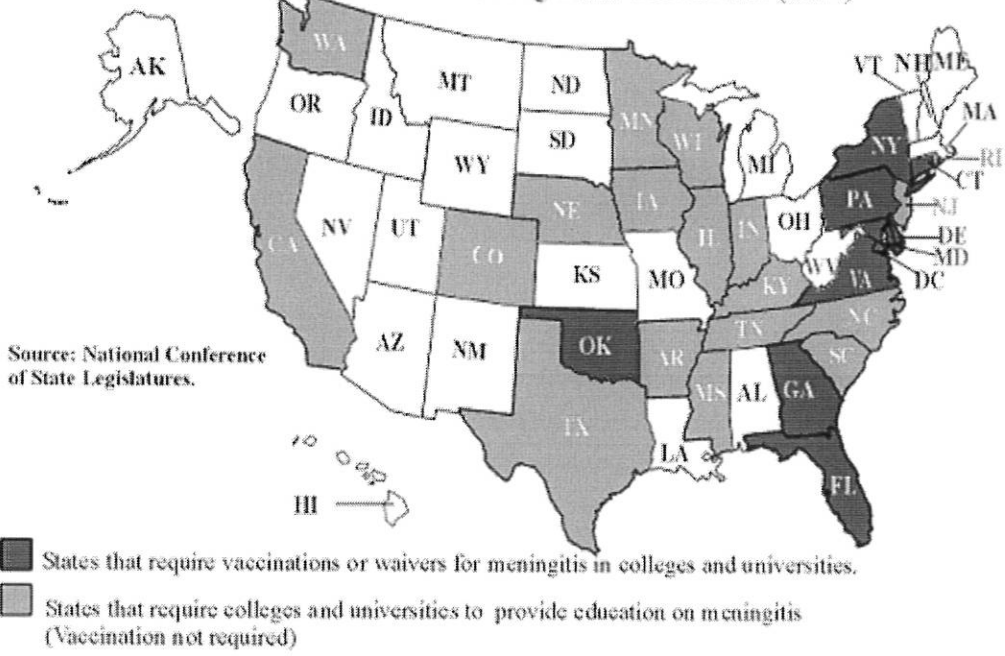
Sincerely,



Duane A. Goossen
Director of the Budget

cc: Mary Blubaugh, Board of Nursing
Linda Durand, KBI
Kimberly Winn, League of KS Municipalities
Judy Moler, KS Association of Counties

States with Meningococcal Prevention Mandates for
Colleges and Universities (2004)



Attachment 22
HHS 3-2-06