

Approved: March 18, 2010
Date

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Brenda Landwehr at 1:30 p.m. on March 10, 2010, in Room 784 of the Docking State Office Building.

All members were present except:

Representative Marc Rhoades - excused
Representative Valdenia Winn - excused

Committee staff present:

Norm Furse, Office of the Revisor of Statutes
Kathie Sparks, Kansas Legislative Research Department
Debbie Bartuccio, Committee Assistant

Conferees appearing before the Committee:

Sheri Smiley, Staff Attorney, Kansas Secretary of State (Attachment 1)
Larrie Ann Brown, Aetna (No Attachment)

Others attending:

See attached list.

HB 2118 - Social worker safety training

The committee proceeded to work **HB 2118**.

Representative Neighbor distributed a document showing some research she had done concerning the number of required hours of continuing education for various professions (Attachment 1). With regard to the 40 hours of continuing education currently required, 3 hours are to be used for ethics and 6 hours for diagnosis and treatment. With the addition of the 6 hours in this bill for safety awareness training, there would be 25 hours available for other classes.

Representative Neighbor reviewed an amendment document (Attachment 2) which was distributed to the committee members.

The committee discussed options concerning the timeline for taking the safety awareness course and for taking a refresher course.

A document with proposed amendments from Chairperson Landwehr was distributed to the committee and reviewed by Norm Furse, Office of the Revisor of Statutes. (Attachment 3)

Representative Landwehr suggested the committee take the Neighbor amendment and add to it a 2 hour refresher course when renewal occurs. The refresher could be done on-line. Representative Crum suggested the requirement be a minimum of 2 hours for the refresher course.

Representative Neighbor made a motion to adopt the amendment that she had distributed (Attachment 2) with the addition of the minimum 2 hour refresher course. The motion was seconded by Representative Slattery. The motion carried.

There was some discussion concerning whether there was a need to add language telling the Board they need to certify programs with employers. It was determined there was not a need to do so.

Representative Neighbor made a motion to pass out Substitute HB 2118 as amended for SB 25. The motion was seconded by Representative Mast. The motion carried.

SB 490 - Physical therapists; licensure

The committee proceeded to work **SB 490**.

CONTINUATION SHEET

Minutes of the House Health and Human Services Committee at 1:30 p.m. on March 10, 2010, in Room 784 of the Docking State Office Building.

Norm Furse, Office of the Revisor of Statutes, reviewed the proposed amendments (Attachment 4).

Representative Crum made a motion to amend SB 490 as suggested. Representative Flaharty seconded the motion and the motion carried.

There was some discussion concerning the \$20,000 fiscal note and the sweeping of the funds and whether or not the Board of Healing Arts could handle the amendment if the legislature sweeps the funds.

Representative Crum made a motion to pass out SB 490 as amended favorable for passage. The motion was seconded by Representative Hermanson. The motion carried.

SB 491 - Respiratory therapists; special permits

The committee proceeded to work SB 491.

Representative Landwehr made a motion to amend the 90 day period to 30 days. Representative Hermanson seconded the motion. The motion carried.

Representative Crum made a motion to amend line 41 of the bill to have the temporary permit expire after 6 months. The motion was seconded by Representative Jack. The motion carried.

Representative Flaharty made a motion to pass out SB 491 favorably as amended. The motion was seconded by Representative Slattery. The motion carried.

SB 508 - Discount card; filing requirements with the secretary of state

Chairperson Landwehr opened the hearing on SB 508.

Sheri Smiley, Staff Attorney, Kansas Secretary of State's office, presented testimony in support of the bill concerning healthcare card suppliers. She explained a healthcare card supplier offers discounts on services from participating doctors, pharmacists, etc., who have agreed to accept the card. They are not considered insurance and are not regulated in the State of Kansas. Because of this, there is the potential for fraud and deception on the part of the supplier when they sell the card to the consumers. To help protect consumers, the healthcare card supplier is subject to the consumer protection code. A healthcare card supplier is required to file a bond or a surety account with their office to financially protect the consumer in case there has been a violation under the current law. This serves as assurance to the consumer that there will be money available if they were in fact defrauded. She explained the bill includes six provisions to amend the healthcare card filing process and proceeded to review the changes with the Committee. (Attachment 5)

The Chair asked if anyone else wished to speak about the bill. The Chair recognized Larrie Ann Brown, representing Aetna, indicated she had just been contacted that her client may have a concern. She requested to reserve the opportunity to continue conversations with the Secretary of State's office and her client to determine whether or not amendments are needed to clarify that an insurance company that is currently licensed by the Kansas Insurance Department would not have additional burden placed on it by being required to do further things with the Secretary of State's office.

The Chair gave the committee members the opportunity to ask questions and when all were answered, the hearing on SB 508 was closed.

The next meeting is scheduled for March 11, 2010.

The meeting was adjourned at 3:10 p.m.

HOUSE HEALTH & HUMAN SERVICES COMMITTEE

DATE: 3-10-10

NAME	REPRESENTING
Shen Smiley	Sec. of State
Janice Carlson	Sec. of State
Julia Mowers	KSBHA
Patrick Vegelesburg	Kearney and Assoc.
Kathleen Jeffrey Hippest	KSBHA.
Kendra Hanson	Hein Law Firm
Michelle Brewer	Cap. Strategics
Lisa Corwin	KSBHA
Bill Speed	NHIP
Larnie Ann Brown	Aetna

Please use black ink

Profession	Number of Required Hours of Continuing Education
Social Work	40 hours every two years
Occupational Therapy	40 hours every two years
Marriage and Family Therapy	40 hours every two years
Professional Counseling	30 hours every two years
Optometry	24 hours every two years
Nursing	20 hours every two years
Real Estate	12 hours every two years
Attorney	12 hours every two years

PROPOSED AMENDMENTS TO HB 2118

[deleted material in brackets with strike type and new material in boldface in larger print]

HOUSE BILL NO. 2118

By Committee on Health and Human Services

AN ACT concerning social workers; social worker safety training; amending K.S.A. [2008] **2009** Supp. 65-6313 and repealing the existing section.

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

Section 1. K.S.A. [2008] **2009** Supp. 65-6313 is hereby amended to read as follows:

65-6313. (a) All licenses issued shall be effective upon the date issued and shall expire at the end of 24 months from the date of issuance.

(b) Except as otherwise provided in K.S.A. 65-6311 and amendments thereto, a license may be renewed by the payment of the renewal fee set forth in K.S.A. 65-6314 and amendments thereto and the execution and submission of a signed statement, on a form to be provided by the board, attesting that the applicant's license has been neither revoked nor currently suspended and that applicant has met the requirements for continuing education established by the board including not less than three continuing education hours of professional ethics. An applicant for renewal of a license as a master social worker or a specialist clinical social worker, as part of such continuing education, shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders. On and after January 1, [2010] **2011**, an applicant for first time licensure renewal as a baccalaureate social worker, master social worker or specialist clinical social worker, as part of such continuing education, shall complete not less than six hours of social worker safety awareness training~~[including self protection maneuvers]~~. If the applicant has already taken

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such training, as part of a previous level of social work licensure renewal, then the applicant is not required to complete an additional six hours of social worker safety **awareness** training.

(c) The application for renewal shall be made on or before the date of the expiration of the license or on or before the date of the termination of the period of suspension.

(d) If the application for renewal, including payment of the required renewal fee, is not made on or before the date of the expiration of the license, the license is void, and no license shall be reinstated except upon payment of the required renewal fee established under K.S.A. 65-6314 and amendments thereto, plus a penalty equal to the renewal fee, and proof satisfactory to the board of the completion of 40 hours of continuing education within two years prior to application for reinstatement. Upon receipt of such payment and proof, the board shall reinstate the license. A license shall be reinstated under this subsection, upon receipt of such payment and proof, at any time after the expiration of such license.

(e) In case of a lost or destroyed license, and upon satisfactory proof of the loss or destruction thereof, the board may issue a duplicate license and shall charge a fee as set forth in K.S.A. 65-6314 and amendments thereto for such duplicate license.

Sec. 2. K.S.A. [2008] **2009** Supp. 65-6313 is hereby repealed.

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

PROPOSED AMENDMENTS TO HB 2118

[deleted material in brackets with strike type and new material in boldface in larger print]
[Sec. 2. is new to the bill so the change in that section is in regular print]

HOUSE BILL NO. 2118

By Committee on Health and Human Services

AN ACT concerning social workers; social worker safety **awareness** training; amending **K.S.A. 65-6306 and** K.S.A. [2008] **2009** Supp. 65-6313 and repealing the existing [section] sections.

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

Section 1. K.S.A. [2008] **2009** Supp. 65-6313 is hereby amended to read as follows:

65-6313. (a) All licenses issued shall be effective upon the date issued and shall expire at the end of 24 months from the date of issuance.

(b) **(1)** Except as otherwise provided in K.S.A. 65-6311 and amendments thereto, a license may be renewed by the payment of the renewal fee set forth in K.S.A. 65-6314 and amendments thereto and the execution and submission of a signed statement, on a form to be provided by the board, attesting that the applicant's license has been neither revoked nor currently suspended and that applicant has met the requirements for continuing education established by the board including not less than three continuing education hours of professional ethics.

(2) An applicant for renewal of a license as a master social worker or a specialist clinical social worker, as part of such continuing education, shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders. On and after [January 1, 2010] the effective date of this act, an applicant for [first time] licensure renewal as a baccalaureate social worker, master social worker or specialist clinical social worker, as part of such

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continuing education, shall complete not less than six hours of social worker safety awareness training[, including self protection maneuvers. If the applicant has already taken such training, as part of a previous level of social work licensure renewal, then the applicant is not required to complete an additional six hours of social worker safety training]. **The six hours of social worker safety awareness training shall be in addition to the total number of hours of continuing education currently required by the board and shall be taken by a licensee who is present at the cite where the program is conducted. If an employer offers such a training program, the board shall approve the program for the purposes of the social worker safety awareness training requirement. The total cost of such six hours of social worker safety awareness training shall not exceed \$25.**

(c) The application for renewal shall be made on or before the date of the expiration of the license or on or before the date of the termination of the period of suspension.

(d) If the application for renewal, including payment of the required renewal fee, is not made on or before the date of the expiration of the license, the license is void, and no license shall be reinstated except upon payment of the required renewal fee established under K.S.A. 65-6314 and amendments thereto, plus a penalty equal to the renewal fee, and proof satisfactory to the board of the completion of 40 hours of continuing education within two years prior to application for reinstatement. Upon receipt of such payment and proof, the board shall reinstate the license. A license shall be reinstated under this subsection, upon receipt of such payment and proof, at any time after the expiration of such license.

(e) In case of a lost or destroyed license, and upon satisfactory proof of the loss or destruction thereof, the board may issue a duplicate license and shall charge a fee as set forth in

K.S.A. 65-6314 and amendments thereto for such duplicate license.

Sec. 2. K.S.A. 65-6306 is hereby amended to read as follows: 65-6306. (a) The board shall issue a license as a baccalaureate social worker to an applicant who:

(1) Has a baccalaureate degree from an accredited college or university, including completion of a social work program recognized and approved by the board, pursuant to rules and regulations adopted by the board;

(2) has passed an examination approved by the board for this purpose; [and]

(3) has completed six hours of social worker safety awareness training; and

(3 4) has satisfied the board that the applicant is a person who merits the public trust.

(b) The board shall issue a license as a master social worker to an applicant who:

(1) Has a master's degree from an accredited college or university, including completion of a social work program recognized and approved by the board, pursuant to rules and regulations adopted by the board;

(2) has passed an examination approved by the board for this purpose; [and]

(3) has completed six hours of social worker safety awareness training; and

(3 4) has satisfied the board that the applicant is a person who merits the public trust.

(c) The board shall issue a license in one of the social work specialties to an applicant who:

(1) Has a master's or doctor's degree from an accredited graduate school of social work, including completion of a social work program recognized and approved by the board, pursuant to rules and regulations adopted by the board;

(2) has had two years of full-time post-master's or post-doctor's degree experience under the supervision of a licensed social worker in the area of the specialty in which such applicant seeks to be licensed;

(3) has passed an examination approved by the board for this purpose; [and]

(4) has completed six hours of social worker safety awareness training; and

(4 5) has satisfied the board that the applicant is a person who merits the public trust.

(d)(1) The board shall issue a license as a specialist clinical social worker to an applicant

who:

(A) Has met the requirements of subsection (c);

(B) has completed 15 credit hours as part of or in addition to the requirements under subsection (c) supporting diagnosis or treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, through identifiable study of the following content areas: Psychopathology, diagnostic assessment, interdisciplinary referral and collaboration, treatment approaches and professional ethics;

(C) has completed a graduate level supervised clinical practicum of supervised professional experience including psychotherapy and assessment, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, with not less than 350 hours of direct client contact or additional postgraduate supervised experience as determined by the board;

(D) has completed as part of or in addition to the requirements of subsection (c) not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting psychotherapy and assessments with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 75 hours of person-to-person individual supervision, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual;

(E) for persons earning a degree under subsection (c) prior to July 1, 2003, in lieu of the education and training requirements under parts (B) and (C) of this subsection, has completed the education requirements for licensure as a specialist clinical social worker in effect on the day immediately preceding the effective date of this act;

(F) for persons who apply for and are eligible for a temporary license to practice as a specialist clinical social worker on the day immediately preceding the effective date of this act, in lieu of the education and training requirements under parts (B), (C) and (D) of this subsection, has completed the education and training requirements for licensure as a specialist clinical social worker in effect on the day immediately preceding the effective date of this act;

(G) has passed an examination approved by the board; and

(H) has paid the application fee.

(2) A licensed specialist clinical social worker may engage in the social work practice and is authorized to diagnose and treat mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations. When a client has symptoms of a mental disorder, a licensed specialist clinical social worker shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed specialist clinical social worker may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

(3) Notwithstanding any other provision of this subsection, a licensed master social worker who has provided to the board an acceptable clinical supervision plan for licensure as a specialist clinical social worker prior to the effective date of this act shall be licensed as a

specialist clinical social worker under this act upon completion of the requirements in effect for licensure as a specialist clinical social worker at the time the acceptable training plan is submitted to the board.

(4) A person licensed as a specialist clinical social worker on the day immediately preceding the effective date of this act shall be deemed to be a licensed specialist clinical social worker under this act. Such person shall not be required to file an original application for licensure as a specialist clinical social worker under this act.

(e) The board shall adopt rules and regulations establishing the criteria which a social work program of a college or university shall satisfy to be recognized and approved by the board under this section. The board may send a questionnaire developed by the board to any college or university conducting a social work program for which the board does not have sufficient information to determine whether the program should be recognized and approved by the board and whether the program meets the rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the program to be considered for recognition and approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about a social work program of a college or university. In entering such contracts the authority to recognize and approve a social work program of a college or university shall remain solely with the board.

Sec. [2] 3. **K.S.A. 65-6306 and K.S.A. [2008] 2009 Supp. 65-6313 [is] are** hereby repealed.

Sec. [3] 4. This act shall take effect and be in force from and after its publication in the statute book.

Debbie Bartuccio

From: Norman Furse
Sent: Wednesday, March 10, 2010 10:18 AM
To: Debbie Bartuccio
Subject: SB 490 Physical Therapists
Attachments: SB 490 Physical Therapist Exempt.wpd

Debbie, Attached for distribution to the committee are some proposed amendments for SB 490. These amendments reflect some of the questions raised by the committee members and a recommendation by Kathleen Lippert, Acting Executive Director, KS Board of Healing Arts:

Section 1, subsection (f) (3) "or unpaid volunteer" was suggested by Kathleen Lippert.

Section 1, subsection (f) (4) suggestion arose out of questions concerning the current malpractice insurance requirements of physical therapists. Originally the physical therapists were covered under the medical malpractice insurance statutes. In 1995 the legislature removed physical therapists from those statutes and created a new statute for them, 65-2920 which reads as follows:

65-2920. Professional liability insurance coverage shall be maintained in effect by each licensed physical therapist actively practicing in this state as a condition to rendering professional services as a physical therapist in this state. The board shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.

The new subsection (f) (4) in the attached draft creates an exemption from this coverage for physical therapists holding an exempt license.

Section 1, subsection (g) (3) modifies the language to delete the reference to the medical malpractice act and to make the wording consistent with the new subsection (f) (4).

Sec. 2 is added to specifically include fees for exempt licenses and renewal of an exempt license, with had been inadvertently omitted from the bill and, at the request of Kathleen Lippert, to include a fee of \$25 for written verification of license. The repealer and title are changed accordingly.

Norm

HEALTH AND HUMAN SERVICES
DATE: 3-10-10
ATTACHMENT: 4-1

PROPOSED AMENDMENTS TO SB 490

**[deleted material in brackets and strike type; new material in boldface and larger print]
[Sec. 2 is an amendatory section but new to the bill. New material is in regular print.]**

SENATE BILL NO. 490

By Committee on Public Health and Welfare

AN ACT concerning physical therapists licensure; amending K.S.A. 2009 Supp. 65-2910 **and 65-2911** and repealing the existing ~~[section]~~ **sections**.

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

Section 1. K.S.A. 2009 Supp. 65-2910 is hereby amended to read as follows: 65-2910. (a) The license of every licensed physical therapist and the certification of every certified physical therapist assistant shall expire on the date established by rules and regulations of the board which may provide renewal throughout the year on a continuing basis. In each case in which a license or certificate is renewed for a period of time of less than one year, the board may prorate the amount of the fee established under K.S.A. 65-2911 and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the renewal fee established under K.S.A. 65-2911 and amendments thereto which shall be paid not later than the expiration date of the license or certificate.

(b) The board shall require every licensed physical therapist or certified physical therapist assistant as a condition of renewal to submit with the application for a renewal evidence of satisfactory completion of a program of continuing education required by the board. The board shall establish the requirements for each such program of continuing education by rules and regulations. In establishing such requirements the board shall consider any existing programs of continuing education currently being offered to licensed physical therapists or certified physical therapist assistants.

(c) At least 30 days before the expiration of the license of a physical therapist or the certificate of a physical therapist assistant, the board shall notify the licensee or certificate holder of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee or certificate holder fails to pay the renewal fee by the date of expiration, the licensee or certificate holder shall be given a second notice that the license or certificate has expired and the license or certificate may be renewed only if the renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, the license or certificate shall be canceled for failure to renew and shall be reissued only after the physical therapist or physical therapist assistant has been reinstated under subsection (d).

(d) Any licensee or certificate holder who allows the license or certificate to be canceled by failing to renew may be reinstated upon recommendation of the board, upon payment of the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable reeducation and continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate reeducation and continuing education requirements for reinstatement of persons whose licenses or certificates have been canceled for failure to renew.

(e) (1) There is hereby created the designation of inactive license. The board is authorized to issue an inactive license to any physical therapist who makes written application for a license as a physical therapist on a form provided by the board and remits the fee established pursuant to K.S.A. 65-2911, and amendments thereto. The board may issue an inactive license only to a person who meets all the requirements for a license to practice as a physical therapist and who does not actively practice as a physical therapist in this state. An inactive license shall not entitle the holder

to render professional services as a physical therapist. The provisions of subsections (c) and (d) relating to expiration, renewal and reinstatement of a license shall be applicable to an inactive license issued under this subsection. Each inactive licensee may apply to engage in active practice by providing to the board proof that a policy of professional liability insurance will be maintained in compliance with K.S.A. 2009 Supp. 65-2920, and amendments thereto, and rules and regulations adopted by the board.

(2) For the licensee whose license has been inactive for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice physical therapy within Kansas. Any licensee whose license has been inactive for more than two years may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(f) (1) There is hereby created a designation of exempt license. The board is authorized to issue an exempt license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an exempt license established pursuant to K.S.A. 65-2911, and amendments thereto. The board may issue an exempt license to a person who is not regularly engaged in the practice of physical therapy in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges attendant to the practice of physical therapy for which such license is issued. Each exempt license may be renewed subject to the provisions of this section. Each exempt licensee shall be subject to all provisions of the physical therapy act, except as otherwise provided in this subsection. The holder of an exempt license shall be required to submit evidence of satisfactory

completion of a program of continuing education required by this section. Each exempt licensee may apply for a license to regularly engage in the practice of physical therapy upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-2911, and amendments thereto.

(2) For the licensee whose license has been exempt for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice physical therapy within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice of physical therapy or engaged in a formal educational program since the license has been exempt may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(3) Nothing in this subsection shall be construed to prohibit a person holding an exempt license from serving as a paid employee or unpaid volunteer of: (A) A local health department as defined by K.S.A. 65-241, and amendments thereto, or (B) an indigent health care clinic as defined by K.S.A. 75-6102, and amendments thereto.

(4) A person who practices under an exempt license shall not be deemed to be rendering professional service as a physical therapist in this state for the purposes K.S.A. 2009 Supp. 65-2920, and amendments thereto.

(g) (1) There is hereby created a designation of federally active license. The board is authorized to issue a federally active license to any licensee who makes written application for such license on a form provided by the board and remits the

same fee required for a license established under K.S.A. 65-2911, and amendments thereto. The board may issue a federally active license only to a person who meets all the requirements for a license to practice physical therapy in Kansas and who practices that branch of physical therapy solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies. A person issued a federally active license may engage in limited practice outside of the course of federal employment consistent with the scope of practice of exempt licenses under subsection (f), except that the scope of practice of a federally active licensee shall be limited to providing direct patient care services gratuitously or providing supervision, direction or consultation for no compensation except that nothing in this subsection (g)(1) shall prohibit a person licensed to practice physical therapy issued a federally active license from receiving payment for subsistence allowances or actual and necessary expenses incurred in providing such services; and rendering professional services as a charitable health care provider as defined in K.S.A. 75-6102, and amendments thereto.

(2) The provisions of subsections (a), (b), and (d) of this section relating to continuing education, expiration and renewal of a license shall be applicable to a federally active license issued under this subsection.

(3) A person who practices under a federally active license shall not be

deemed to be rendering professional service as a [health care provider] physical therapist in this state for the purposes of [K.S.A. 40-3402 or] K.S.A. 2009 Supp. 65-2920, and amendments thereto.

Sec. 2. K.S.A. 2009 Supp. 65-2911 is hereby amended to read as follows:

(a) The board may adopt such rules and regulations as necessary to carry out the purposes of this act. The executive director of the board shall keep a record of all proceedings under this act and a roster of all persons licensed or certified under the act. The roster shall show the name, address, date and number of the original license or certificate, and the renewal thereof.

(b)(1) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:

Application based upon certificate of prior examination, not more than ..

\$80

Application based on examination, not more than \$100

Exempt license fee, not more than..... \$80

Annual renewal fee, not more than \$70

Exempt license renewal fee, not more than..... \$70

Late renewal fee, not more than \$75

Reinstatement fee, not more than	\$80
Certified copy of license or certificate, not more than	\$15
Duplicate certificate	\$15
Temporary permit	\$25
Written verification of license.....	\$25

(2) The board shall charge and collect in advance fees for any examination administered by the board under article 29 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination. If the examination is not administered by the board, the board may require that fees paid for any examination under article 29 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto be paid directly to the examination service by the person taking the examination.

(3) The fees fixed by the board by rules and regulations under article 29 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto and in effect immediately prior to the effective date of this act shall continue in effect until different fees are fixed by the board by rules and regulations as provided under this section.

(c) The board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Twenty percent of such amount shall be credited to the state general fund and

the balance shall be credited to the healing arts fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person or persons designated by the president of the board.

Sec. [2] **3.** K.S.A. 2009 Supp. 65-2910 [is] **and 65-2911 are** hereby repealed.

Sec. [3] **4.** This act shall take effect and be in force from and after its publication in the statute book.

TESTIMONY OF THE SECRETARY OF STATE
ON SB 508
DATE: March 10, 2010

Madam Chair and Members of the Committee:

The secretary of state appreciates the opportunity to appear today to brief the committee and answer questions relating to SB 508, a bill regarding healthcare card suppliers.

A healthcare card supplier offers discounts on services from participating doctors, pharmacists, etc., who have agreed to accept the card. They are not considered insurance and are not regulated in the State of Kansas. Because of this, there is the potential for fraud and deception on the part of the supplier when they sell the card to consumers. To help protect consumers, the healthcare card supplier is subject to the consumer protection code. A healthcare card supplier is required to file a bond or a surety account with our office to financially protect the consumer in case there has been a violation under the current law. This serves as assurance to the consumer that there will be money available if they were in fact defrauded.

This bill includes six provisions to amend the health care card filing process:

1. It clarifies that the supplier file an annual notice on a form that is prescribed by this office so that we have the correct name, address and contact person.
2. It requires that a healthcare card supplier file a bond with our office, not a surety account. Currently a company may file a surety account in lieu of filing a surety bond. This requires that an asset with a value of \$50,000.00 be placed in the account, but there is no penalty or remedy for what would happen if the asset decreased in value, and there is no provision for the Secretary of State to accept or reject the filing even if the asset used to fund the account was clearly risky. Funding a surety account with a risky investment potentially decreases the available amount for a damaged consumer to collect against. A surety bond is a much safer option than a surety account. A surety bond is more of an "insurance" policy with an annual premium that is payable to any person and the attorney general for the benefit of any person who is violated by the act. We recommend that the surety bond be approved by the attorney general as the attorney general is the one with enforcement power in case there is a violation of the Act.
3. It amends the law so that when a bond is cancelled the surety must give notice to both the secretary of state and the discount card company. Currently the law only requires that notice be given to the Secretary of State and we are then responsible to forward the cancellation on to the company. This seems nonsensical.
4. It clarifies the law to state that the annual due date of the renewal of the application follows the month when the supplier first filed their annual notice with this office. It is

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currently unclear if this is supposed to be an annual notice based on January 1, or based on the date they first filed with our office.

5. a. It clarifies the requirement to appoint a resident agent. The law requires that if a supplier is going to “sell” a healthcare card they must file not only a bond, but also appoint a resident agent under KSA 60-306. KSA 60-306 requires that a resident agent be appointed every three years. This is very confusing for suppliers in that they have to annually file the bond with us but then remember to file a resident agent appointment every three years.

b. This bill amends current law to say that a supplier who **sells** any discount card be required to name a resident agent as part of their annual filing so that there is no longer a need to keep track of the three year period.

c. For a supplier who does not sell, and does not file the annual notice, this bill maintains the resident agent filing requirement with the three year period. Current law requires that a supplier who “markets, promotes, advertises or otherwise distributes” any discount card be required to file an appointment of resident agent under KSA 60-306, but not a bond. We recommend keeping the three year filing period as prescribed by KSA 60-306, for those suppliers as they are not required to do any type of annual filing under the current law.

6. This bill also updates the name of the fee fund that the filing fee is to be applied to.

I appreciate the opportunity to appear today and would be happy to answer questions.

Sheri L. Smiley, Staff Attorney
Kansas Secretary of State