

SESSION OF 2006

SUPPLEMENTAL NOTE ON SENATE BILL NO. 469

As Amended by Senate Committee on
Public Health and Welfare

Brief*

SB 469, would, if enacted, create a new statute that is to be cited as The Behavioral Sciences Licensing and Prevention Act.

The bill would create definitions pertaining to the new act, including:

- Impairment, defined as a licensee's conduct that has resulted in the licensee being unable to practice with reasonable skill and safety;
- Licensee, defined as an individual licensed by the Behavioral Sciences Regulatory Board;
- Treatment contractor, defined as a professional organization or professional program that has contracted with the Board to evaluate or cause to be evaluated a licensee for impairment and, if warranted, subsequently monitor a licensee for compliance with a course of treatment; and
- Reportable incident, defined as conduct by a licensee which (1) is or may be below the applicable standard of care, or (2) may be grounds for disciplinary action by the Behavioral Sciences Regulatory Board.

The bill would authorize any person who has information relating to a reportable incident to file a complaint with the Board; would authorize the Board to investigate a report or complaint or, additionally or alternatively, if the Board has reasonable cause to believe the licensee could be impaired, to refer the licensee to a treatment contractor for assessment for possible treatment; would authorize the treatment contractor to refer the licensee to a physician or other licensed mental or physical health professional for the purpose of

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

determining a course of treatment and monitoring schedule; would require a licensee to bear all costs associated with obtaining an evaluation; would require the Board to receive and consider the conclusions of the evaluation when a licensee has been referred to a treatment contractor; and would require the Board to develop procedures for processing complaints after receiving the conclusions of an evaluation from a treatment contractor. The Board would be authorized to take disciplinary action if a licensee's impairment is substantiated by clear and convincing evidence or if the licensee has violated any applicable statute or regulation as an alternative to referral to a treatment contractor. The Board could also deny, revoke, limit, condition, or suspend any license in the event the licensee, after being referred to a treatment contractor, fails to comply with a course of treatment or monitoring schedule.

The bill would relieve various persons, including a treatment contractor, who are acting under the authority of the act from liability for acts, omissions, or recommendations made in good faith while acting within the scope of authority or responsibility imposed by the bill; would make reports and records generated pursuant to the act confidential and privileged and not subject to discovery, subpoena, or other means of legal compulsion, nor admissible in any other civil or administrative action, except as provided in the bill; would authorize the Board or any committee of the Board in which a licensee's impairment will be discussed to close the meeting; would relieve persons who fail to report as authorized by the bill from civil liability; and would authorize the Board to adopt rules and regulations to implement the new act.

Background

SB 469 was introduced at the request of the Behavioral Sciences Regulatory Board whose representative also appeared in support of the bill at the hearing. Others appearing in support were a member of the Board who is a licensed psychologist and a representative of the Kansas Chapter of the National Association of Social Workers who expressed support for the concept, but not the bill as introduced. A representative of the Disability Rights Center of Kansas presented testimony in opposition to the bill as introduced.

The Senate Committee amendments were suggested by a representative of the Kansas Chapter of the National Association of Social Workers.

The fiscal note on SB 469 indicates the Behavioral Sciences Regulatory Board believes it could incur \$200.00 in increased expenditures for office supplies, postage, telephone, and printing. The agency could absorb the additional costs within existing resources.