

## REPORTS OF STANDING COMMITTEES

MADAM PRESIDENT:

The Committee on **Public Health and Welfare** recommends **HB 2673**, as amended by House Committee of the Whole, be amended on page 44, following line 23, by inserting:

"Sec. 30. K.S.A. 2013 Supp. 65-2872 is hereby amended to read as follows: 65-2872.

The practice of the healing arts shall not be construed to include the following persons:

- (a) Persons rendering gratuitous services in the case of an emergency.
- (b) Persons gratuitously administering ordinary household remedies.
- (c) The members of any church practicing their religious tenets provided they shall not be exempt from complying with all public health regulations of the state.
- (d) Students while in actual classroom attendance in an accredited healing arts school who after completing one year's study treat diseases under the supervision of a licensed instructor.
- (e) Students upon the completion of at least three years study in an accredited healing arts school and who, as a part of their academic requirements for a degree, serve a preceptorship not to exceed 180 days under the supervision of a licensed practitioner.
- (f) Persons who massage for the purpose of relaxation, muscle conditioning, or figure improvement, provided no drugs are used and such persons do not hold themselves out to be physicians or healers.
- (g) Persons whose professional services are performed under the supervision or by order of or referral from a practitioner who is licensed under this act.
- (h) Persons in the general fields of psychology, education and social work, dealing with

the social, psychological and moral well-being of individuals ~~and/or~~ or groups, or both, provided they do not use drugs and do not hold themselves out to be the physicians, surgeons, osteopathic physicians or chiropractors.

(i) Practitioners of the healing arts in the United States army, navy, air force, public health service, and coast guard or other military service when acting in the line of duty in this state.

(j) Practitioners of the healing arts licensed in another state when and while incidentally called into this state in consultation with practitioners licensed in this state.

(k) Dentists practicing their professions, when licensed and practicing in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(l) Optometrists practicing their professions, when licensed and practicing under and in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(m) Nurses practicing their profession when licensed and practicing under and in accordance with the provisions of article 11 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(n) Podiatrists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(o) Every act or practice falling in the field of the healing art, not specifically excepted herein, shall constitute the practice thereof.

(p) Pharmacists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 16 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(q) A dentist licensed in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, who administers general and local anesthetics to facilitate medical procedures conducted by a person licensed to practice medicine and surgery if such dentist is certified by the board of healing arts under K.S.A. 65-2899, and amendments thereto, to administer such general and local anesthetics.

(r) Practitioners of the healing arts duly licensed under the laws of another state who do not open an office or maintain or appoint a place to regularly meet patients or to receive calls within this state, but who order services which are performed in this state in accordance with rules and regulations of the board. The board shall adopt rules and regulations identifying circumstances in which professional services may be performed in this state based upon an order by a practitioner of the healing arts licensed under the laws of another state.

(s) Persons licensed by the state board of cosmetology practicing their professions, when licensed and practicing under and in accordance with the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

Sec. 31. K.S.A. 65-2873 is hereby amended to read as follows: 65-2873. (a) Each applicant for a license by examination to practice any branch of the healing arts in this state shall:

(1) Present to the board evidence of proficiency in the basic sciences issued by the national board of medical examiners, the board of examiners of osteopathic physicians and surgeons or the national board of chiropractic examiners or such other examining body as may be approved by the board or in lieu thereof pass such examination as the board may require in the basic science subjects;

(2) present proof that the applicant is a graduate of an accredited healing arts school or college; and

(3) pass an examination prescribed and conducted by the board covering the subjects incident

to the practice of the branch of healing art for which the applicant applies.

(b) Any person seeking a license to practice medicine and surgery shall present proof that such person has completed acceptable postgraduate study as may be required by the board by regulations.

(c) The board may authorize an applicant who does not meet the requirements of paragraph (2) of subsection (a) to take the examination for licensure if the applicant:

(1) Has completed three years of postgraduate training as approved by the board;

(2) is a graduate of a school in which has been in operation for not less than 15 years and the graduates ~~of which~~ have been licensed in another state or states which has standards similar to Kansas; and

(3) meets all other requirements for taking the examination for licensure of the Kansas healing arts act.

(d) In addition to the examination required under paragraph (3) of subsection (a), if the applicant is a foreign medical graduate the applicant shall pass an examination given by the educational commission for foreign medical graduates.

(e) No person licensed to practice and actively engaged in the practice of the healing arts shall attach to such person's name any title, or any word or abbreviation indicating that such person is a doctor of any branch of the healing arts other than the branch of the healing arts in which such person holds a license but shall attach to such person's name the degree or degrees to which such person is entitled by reason of such person's diploma.

Sec. 32. K.S.A. 65-2874 is hereby amended to read as follows: 65-2874. (a) An accredited school of medicine for the purpose of this act shall be a school or college which requires the study of medicine and surgery in all of its branches, which the board shall determine to have ~~a standard of education~~ educational standards substantially equivalent to the ~~university of Kansas school of medicine~~

minimum educational standards for medical colleges as established by the liaison committee on medical education or any successor organization that is the official accrediting body of educational programs leading to the degree of doctor of medicine and recognized for such purpose by the federal department of education and the council on postsecondary education. All such schools shall be approved by the board.

(b) The board shall adopt rules and regulations establishing the criteria which a school shall satisfy in meeting the standard established under subsection (a). The criteria shall establish the minimum standards in the following areas:

- (1) Admission requirements;
- (2) basic science coursework;
- (3) clinical coursework;
- (4) qualification of faculty;
- (5) ratio of faculty to students;
- (6) library;
- (7) clinical facilities;
- (8) ~~laboratories~~;
- ~~(9)~~ equipment;
- ~~(10)~~ ~~specimens~~;
- ~~(11)~~~~(9)~~ financial qualifications;
- ~~(10)~~ graduation requirements; and
- ~~(12)~~~~(11)~~ accreditation by independent agency.

(c) The board may send a questionnaire developed by the board to any school for which the board does not have sufficient information to determine whether the school meets the requirements of this statute or rules and regulations adopted pursuant to this statute. The questionnaire providing the

necessary information shall be completed and returned to the board in order for the school to be considered for approval.

(d) The board is authorized to contract with investigative agencies, commissions or consultants to assist the board in obtaining information about schools. In entering such contracts the authority to approve schools shall remain solely with the board.

Sec. 33. K.S.A. 65-2875 is hereby amended to read as follows: 65-2875. An accredited school of osteopathic medicine for the purpose of this act shall be a school or college which requires the study of osteopathic medicine and surgery in all of its branches which the board shall determine to have ~~a standard of education not below that of the Kirksville college of osteopathy and surgery~~ educational standards substantially equivalent to the minimum educational standards for osteopathic colleges as established by the American osteopathic association or any successor organization that is the official accrediting body of educational programs leading to the degree of doctor of osteopathy. All such schools shall be approved by the board.

Sec. 34. K.S.A. 65-2885 is hereby amended to read as follows: 65-2885. No person licensed hereunder shall use a title in connection with ~~his~~ such person's name which in any way represents ~~him~~ such person as engaged in the practice of any branch of the healing arts for which ~~he~~ such person holds no license: ~~Provided, however, That every such~~ Every licensee, when using the letters or term "Dr." or "Doctor," shall use the appropriate words or letters to identify ~~himself~~ such licensee with the particular branch of the healing arts in which ~~he~~ the licensee holds a license.

Sec. 35. K.S.A. 65-2893 is hereby amended to read as follows: 65-2893. In any case of death wherein notification of the coroner is not required by K.S.A. ~~19-1031~~ 22a-231, and amendments thereto, or any case in which the coroner does not elect to perform an autopsy, an autopsy may be performed upon the body of a deceased person by a physician or surgeon when so authorized, in writing by the decedent during his lifetime. Additionally, unless the physician or surgeon has

knowledge that contrary directions have been given by the decedent, the following persons in the order of priority stated, may consent to the performance of an autopsy: ~~(1)~~(a) The spouse, if one survives and if not incapacitated. If no spouse survives or if the spouse is incapacitated;

~~(2)~~(b) an adult child;

~~(3)~~(c) either parent;

~~(4)~~(d) an adult brother or sister;

~~(5)~~(e) the guardian of the decedent at the time of his death;

~~(6)~~(f) any other person or agency authorized or under obligation to dispose of the body.

If there is no surviving spouse and an adult child is not immediately available at the time of death, the autopsy may be authorized by either parent; if a parent is not immediately available, it may be authorized by any adult brother or sister: ~~Provided, That,~~ Such autopsy shall not be performed under a consent given as required by a member of the class listed in ~~(2), (3) or (4) above~~ subsection (b), (c) or (d), if, before such autopsy is performed, any member of the class shall object to the performance of such autopsy in writing to the physician or surgeon by whom the autopsy is to be performed.

Sec. 36. K.S.A. 2013 Supp. 65-2895 is hereby amended to read as follows: 65-2895. (a) There is hereby created an institutional license which may be issued by the board to a person who:

(1) Is a graduate of an accredited school of medicine or osteopathic medicine or a school which ~~has been in operation for not less than 15 years and the graduates of which~~ have been licensed in another state or states which have standards similar to Kansas;

(2) has completed at least two years in a postgraduate training program in the United States approved by the board; and

(3) who is employed as provided in this section.

(b) Subject to the restrictions of this section, the institutional license shall confer upon the holder the right and privilege to practice medicine and surgery and shall obligate the holder to comply

with all requirements of such license.

(c) The practice privileges of institutional license holders are restricted and shall be valid only during the period in which:

(1) The holder is employed by any institution within the ~~department of social and rehabilitation~~ Kansas department for aging and disability services, employed by any institution within the department of corrections or employed pursuant to a contract entered into by the ~~department of social and rehabilitation~~ Kansas department for aging and disability services or the department of corrections with a third party, and only within the institution to which the holder is assigned; and

(2) the holder has been employed for at least three years as described in subsection (c)(1) and is employed to provide mental health services in Kansas in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or municipal agency, or other political subdivision, or a contractor of a federal, state, county or municipal agency, or other political subdivision, or a duly chartered educational institution, or a medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto, in a psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto, or a contractor of such educational institution, medical care facility or psychiatric hospital, and whose practice, in any such employment, is limited to providing mental health services, is a part of the duties of such licensee's paid position and is performed solely on behalf of the employer; ~~or~~

~~(3) the holder has been employed for at least three years as described in subsection (c)(1) and is providing mental health services pursuant to a written protocol with a person who holds a license to practice medicine and surgery other than an institutional license.~~

(d) An institutional license shall expire on the date established by rules and regulations of the board which may provide for renewal throughout the year on a continuing basis. In each case in which an institutional license is renewed for a period of time of more or less than 12 months, the board may



prorate the amount of the fee established under K.S.A. 65-2852, and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee, which shall be paid not later than the expiration date of the license. An institutional license shall be valid for a period of two years after the date of issuance and may be renewed for an additional two-year periods one-year period if the applicant for renewal meets the requirements under subsection (c) ~~of this section~~, has submitted an application for renewal on a form provided by the board, has paid the renewal fee established by rules and regulations of the board of not to exceed \$500 and has submitted evidence of satisfactory completion of a program of continuing education required by the board. In addition, an applicant for renewal who is employed as described in subsection (c)(1) shall submit with the application for renewal a recommendation that the institutional license be renewed signed by the superintendent of the institution to which the institutional license holder is assigned.

(e) Nothing in this section shall prohibit any person who was issued an institutional license prior to the effective date of this act from having the institutional license reinstated by the board if the person meets the requirements for an institutional license described in subsection (a).

(f) This section shall be a part of and supplemental to the Kansas healing arts act.

Sec. 37. K.S.A. 65-2898 is hereby amended to read as follows: 65-2898. (a) No person reporting to the state board of healing arts in good faith any information such person may have relating to alleged incidents of malpractice, or the qualifications, fitness or character of, or disciplinary action taken against, a person licensed, registered or certified by the board shall be subject to a civil action for damages as a result of reporting such information.

(b) Any state, regional or local association composed of persons licensed to practice a ~~branch of the healing arts profession regulated by the board~~ and the individual members of any committee thereof, which in good faith investigates or communicates information pertaining to the alleged incidents of malpractice, or the qualifications, fitness or character of, or disciplinary action taken

against, any licensee, registrant or certificate holder to the state board of healing arts or to any committee or agent thereof, shall be immune from liability in any civil action, that is based upon such investigation or transmittal of information if the investigation and communication was made in good faith and did not represent as true any matter not reasonably believed to be true.

Sec. 38. K.S.A. 65-28,122 is hereby amended to read as follows: 65-28,122. (a) Subject to the provisions of subsection (c) of K.S.A. 65-4923,~~and amendments thereto~~, any person licensed to practice the healing arts, registered or certified to practice any profession regulated by the board who possesses knowledge not subject to the physician-patient privilege that another person so licensed, registered or certified has committed any act enumerated under ~~K.S.A. 65-2836 and amendments thereto~~ any practice act administered by the board which may be a ground for disciplinary action pursuant to ~~K.S.A. 65-2836 and amendments thereto~~ shall immediately report such knowledge, under oath, to the state board of healing arts. A person licensed ~~to practice the healing arts, registered or certified to practice any profession regulated by the board~~ who possesses such knowledge shall reveal fully such knowledge upon official request of the state board of healing arts.

(b) As used in subsection (a), "knowledge" means familiarity because of direct involvement or observation of the incident.

(c) The provisions of subsection (a) shall not apply to any person licensed, registered or certified to practice any profession regulated by the board who is acting solely as a consultant or providing a review at the request of any person or party.

(d) This section shall be part of and supplemental to the Kansas healing arts act.

Sec. 39. K.S.A. 65-28,126 is hereby amended to read as follows: 65-28,126. (a) It shall be the duty of each licensee to notify the state board of healing arts in writing within 30 days of any changes in the licensee's mailing address and practice addresses.

(b) A penalty in the amount not to exceed \$100 for the first violation of subsection (a) and

\$150 for each subsequent violation of subsection (a) may be assessed by the state board of healing arts under the provisions of K.S.A. 65-2863a, and amendments thereto.

(c) This section shall be part of and supplemental to the Kansas healing arts act.

Sec. 40. K.S.A. 2013 Supp. 65-28,127 is hereby amended to read as follows: 65-28,127. (a) Every supervising or responsible licensee who directs, supervises, orders, refers, accepts responsibility for, enters into written agreements or practice protocols with, or who delegates acts which constitute the practice of the healing arts to other persons shall:

(1) Be actively engaged in the practice of the healing arts in Kansas;

(2) review and keep current any required written agreements or practice protocols between the supervising or responsible licensee and such persons, as may be determined by the board;

(3) direct, supervise, order, refer, enter into a written agreement or practice protocol with, or delegate to such persons only those acts and functions which the supervising or responsible licensee knows or has reason to believe can be competently performed by such person and is not in violation of any other statute or regulation;

(4) direct, supervise, order, refer, enter into a written agreement or practice protocol with, or delegate to other persons only those acts and functions which are within the normal and customary specialty, competence and lawful practice of the supervising or responsible licensee;

(5) provide for a qualified, substitute licensee who accepts responsibility for the direction, supervision, delegation and written agreements or practice protocols with such persons when the supervising or responsible licensee is temporarily absent; and

(6) comply with all rules and regulations of the board establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.

(b) "Responsible licensee" means a person licensed by the state board of healing arts to practice medicine and surgery or chiropractic who has accepted responsibility for the actions of persons

who perform acts pursuant to written agreements or practice protocols with, or at the order of, or referral, direction, supervision or delegation from such responsible licensee.

(c) Except as otherwise provided by rules and regulations of the board implementing this section, the physician assistant licensure act shall govern the direction and supervision of physician assistants by persons licensed by the state board of healing arts to practice medicine and surgery.

(d) Nothing in subsection (a)(4) shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing anesthesia care by a registered nurse anesthetist pursuant to K.S.A. 65-1158, and amendments thereto.

(e) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing physical therapy services pursuant to K.S.A. 65-2901 et seq., and amendments thereto.

(f) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from entering into a co-management relationship with an optometrist pursuant to K.S.A. 65-1501 et seq., and amendments thereto.

(g) The board may adopt rules and regulations establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.

(h) As used in this section, "supervising physician" means a physician who has accepted continuous and ultimate responsibility for the medical services rendered and actions of the physician assistant while performing under the direction and supervision of the supervising physician.

(i) This section shall be part of and supplemental to the Kansas healing arts act.

Sec. 41. K.S.A. 2013 Supp. 65-28,132 is hereby amended to read as follows: 65-28,132. (a) For the purpose of paying for storage, maintenance and transfer of medical records by the board of healing arts, there is hereby established the medical record maintenance trust fund. All payments and disbursements from the medical records maintenance trust fund shall be made upon warrants of the

director of accounts and reports issued pursuant to vouchers approved by the executive director of the board or by any person designated by the board.

(b) The board may certify to the director of accounts and reports that a specific amount, but not more than \$10, of each fee for the issuance or renewal of a license be credited to the medical records maintenance trust fund until such time the balance exceeds \$100,000. At any time the balance in the medical records trust fund falls below \$100,000, the board shall certify again to the director of accounts and reports that a specific amount, but not to exceed \$10, of each fee for the issuance or renewal of a license be deposited in the state treasury and credited to the medical records maintenance trust fund. The board may order a licensee to reimburse the amount of expenses incurred by the board in a case when such licensee failed to designate a custodian or provide for the storage, maintenance, transfer and access to such licensee's medical records upon becoming inactive. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the medical records maintenance trust fund. All funds deposited and credited to the medical records maintenance fund shall be expended for the purposes set forth in this section.

(c) On or before the 10<sup>th</sup> day of each month, the director of accounts and reports shall transfer from the state general fund to the medical records maintenance trust fund interest earnings based on: (1) The average daily balance of moneys in the medical records maintenance trust fund for the preceding month; and (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) The board of healing arts shall adopt rules and regulations establishing the procedures and standards necessary to implement the provisions of this section within one year of the effective date of this section.

(e) This section shall be part of and supplemental to the Kansas healing arts act.";

And by renumbering sections accordingly;

On page 67, in line 19, after "2866," by inserting "65-2873, 65-2874, 65-2875, 65-2877, 65-2885, 65-2893, 65-2898, 65-28,122, 65-28,126,"; in line 22, after "65-2867," by inserting "65-2872, 65-2895, 65-28,127, 65-28,132,";

On page 1, in the title, in line 5, after "2866," by inserting "65-2873, 65-2874, 65-2875, 65-2885, 65-2893, 65-2898, 65-28,122, 65-28,126,"; in line 8, after "65-2867," by inserting "65-2872, 65-2895, 65-28,127, 65-28,132,"; in line 9, after the second "repealing" by inserting "K.S.A. 65-2877 and"; and the bill be passed as amended.

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Chairperson