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Date

3/28/88
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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin L. Littlejohn at
Chairperson

1:30 a.m./p.m. on March 22, 19 in room 423-S of the Capitol.

All members were present except:

Representative Carol Sader, excused.

Committee staff present:

Emalene Correll, Research
Bill Wolff, Research
Norman Furse, Revisor
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Wayne Probasco, Kansas Podiatric Medical Association
Charlotte Abbott, Administrative Assistant, Ks. Board of
Healing Arts
Harold Riehm, Ks. Association Osteopathic Medicine
(Printed testimony only)
Jerry Slaughter, Ks. Medical Society
Lt. Governor, Jack Walker, (Printed testimony only)

Chairman called meeting to order, noting House Resolution 6047.
Discussion was held in regard to the merits of this Resolution.

Rep. Flottman made a motion to pass HR 6047 favorably, seconded
by Rep. Borum. No discussion. Vote taken, motion carried.
It was noted Representative Sebelius, as sponsor would carry the
bill.

Chair drew attention to Agenda for this date. Briefing began on
SB 603.

Ms. Correll gave background and explanation of SB 603, noting several
technical amendments and policy questions. New language proposed
gives the Board of Healing Arts the authority to limit the number
of times persons could re-try the exam. She noted "annual" as
it relates to licensed, replaces the word "bi-annual", as this
conforms with all other licensing schemes. She noted requirements
in regard to re-licensing after licenses has expired. A new category
has been set up to give the Board of Healing Arts authority to
suspend licenses and assess fines when necessary. She answered
questions, i.e., no all licensed groups are not going to bi-annual,
most now are annual licenses; new section 23 which sunsets the
Advisory Committee is of concern to some.

Hearings began on SB 603.

Mr. Wayne Probasco, Kansas Podiatric Medical Association (Attachment
No. 1), offered background on SB 603, i.e., since the introduction
of legislation earlier in SB 35. Currently SB 603 conforms Podiatry
to other health providers under the State Board of Healing Arts,
and changes language from Podiatrist being registered to being
licensed, conforms language as to other providers, gives Board
right to assess fines for non-compliance of requirements, establishes
an exempt licensee for an inactive practitioner, and the Board
has the right to change continuing education requirements, also
Advisory Commission will sunset. He answered questions, no, I
don't foresee problems with the transition in regard to educational
requirements, although it will need immediate attention. He urged
for support of SB 603.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

room 423, Statehouse, at 1:30 A.M./P.M. on March 22, 1988

Hearings continue on SB 603:-

Charlotte Abbott, Administrative Assistant, State Board of Healing Arts, (Attachment No. 2), stated their Board had voted to support changes in Podiatry laws to refer to Podiatrists as licensed, rather than registered professionals. She offered an amendment to SB 603, i.e., the statutory limitation for annual renewal fees as set forth on lines 400-402, Page 11 of the bill be increased to \$150.00. This would make statutory maximums for renewal fees equal to that for licensees in the Healing arts, and would enable the Board to set renewal fees for all licensees at the same rate. She urged for favorable consideration of SB 603. She answered questions, i.e., the Podiatry group is the only group with one member on our Board; yes language in regard to passing grade is consistent with other groups; she is confident the Board can handle the phase in period in respect to the change in educational requirements could be handled with no problems.

Hearings closed on SB 603.

Hearings began on SB 656.

There was printed testimony provided from Mr. Harold Riehm, Kansas Association of Osteopathic Medicine, (Attachment No. 3).

Mr. Jerry Slaughter, Kansas Medical Society, (Attachment No. 4), noted SB 656 amends that portion of the Healing Arts Act which was enacted last year in SB 36, a provision which exempts retiring physicians from the mandatory malpractice insurance requirements, and the continuing education requirement. The intent is to allow physicians who can and want to, to contribute in the form of volunteer work, administrative and patient and non-patient care activities without having to carry high liability insurance. The Board had placed restrictions on these physicians in prohibiting them to writing prescriptions, which our Society feels unjust. SB 656 will make it clear that arbitrary limitations imposed by the Board on an exempt license are inappropriate. He urged for favorable consideration of SB 656. He answered questions, i.e., yes, physicians volunteering their time under this exemption would in fact be held liable as is any other physician in practice, they are well aware of this fact; many physicians are still able to offer their expertise in a vital way. He noted Dr. Jack Walker had made a statement in regard to SB 656.

Chair noted at this point, written testimony from Dr. Jack Walker was available for all members, recorded this date as (Attachment No. 5).

Hearings closed on SB 656.

Chairman drew attention to bills previously heard.

SB 461, Epilepsy Task Force.

Rep. Gatlin made a motion to advance SB 461 favorably, seconded by Rep. Pottorff. Discussion ensued, i.e., yes, there is language in the bill that indicates a person with epilepsy can serve on the Task Force; there is discrimination against this group of people and it seems to appoint a Task Force will only delay solutions even longer; Task Force not obligated to report any earlier than 2 years from beginning of their studies.

Rep. Gatlin and Rep. Pottorff withdrew their motions to advance SB 461.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30 /a.m./p.m. on March 22, 1988

Discussion continued on SB 461:-Rep. Shallenburger made a motion to amend SB 461 by changing date on line 68, and 87 from 1989 to "1988", and in line 89 to delete the words "statute book", and insert in lieu thereof, "register". Motion seconded by Rep. Amos. Discussion ensued, i.e., perhaps action could be taken if Task Force was in place by May of this year, some short term needs could be addressed and a bill presented to legislature by 1989 Session; in two or three hearings this Summer it was quickly learned there are problems facing these people that need to be addressed before two more years. Vote taken, motion carried.

Rep. Gatlin renewed his motion to advance SB 461 out favorably, as amended, seconded by Rep. Pottorff, motion carried.

SB 570:

Rep. Branson made a motion to amend SB 570 in the following manner, as per suggestions the day of the hearings . Line 69 delete "and the", line 70, delete "University of Kansas medical center" and after the word into, also delete "a". Also to add "s" on the word contract in line 70. Line 77 delete "or the", Line 78 delete "University of Kansas Medical Center. or both" and insert the word, "contractees". Rep. Pottorff seconded the motion to amend as such. Discussion ensued, i.e., fiscal impact; Senate Appropriations set aside \$100,000 to fund this program. Vote taken, motion carried.

Discussion continued on funding of SB 570.

Rep. Neufeld moved to amend SB 570 on line 69, after the words, "secretary of health and environment shall enter into contracts", insert the language, "within the limits of appropriations therefor". Motion seconded by Rep. Weimer, motion carried.

Discussion continued as to why Health and Environment die in fact leave this out of their funding package.

Rep. Pottorff made a motion to amend SB 570, at suggestion of Mr. Furse because of technical reasons, line 84, to add after "the person is", "less than", and to strike the word, "younger". Motion seconded by Rep. Branson, motion carried.

SB 570 as a whole, Rep. Gatlin made a motion to pass SB 570 out favorably as amended, seconded by Rep. Branson. Discussion continued about funding; some felt it bad policy for this committee to enact legislation without funding in budget; not a good practice to continue to try and pick up funding at state level after Federal programs are dropped. Vote taken, division requested, show of hands indicated 11 in favor, so motion carried. Rep. Buehler recorded as NO vote.

Chair drew attention to minutes in need of approval.

Rep. Amos made a motion to approve minutes of March 14, 15, 16 as written, seconded by Rep. Buehler, motion carried.

Meeting adjourned 2:45.



Kansas Podiatric Medical Association

615 S. Topeka Ave. • Topeka, Kansas 66603 • (913) 354-7611

PRESIDENT

JOSEPH R. LICKTEIG, D.P.M.
The Bethel Clinic
201 S. Pine
Newton, Ks. 67114
(316) 283-3600

March 22, 1988

PRESIDENT-ELECT

RICHARD KRAUSE, D.P.M.
3109 12th
Great Bend, Ks. 67530
(316) 793-6592

SECRETARY-TREASURER

WARREN W. ABBOTT, D.P.M.
Medical Arts Bldg., #110
10th & Horne
Topeka, Ks. 66604
(913) 235-6900

House Committee On Public Health & Welfare
Room 423 South, State House
Topeka, Kansas 66603

In Re: House Bill No. 603
An Act Regulating The Practice of Podiatry

DIRECTOR

HAROLD COX, D.P.M.
666 New Brotherhood Bldg.
Kansas City, Ks. 66101
(913) 371-0388

Chairman Littlejohn and Members of the Committee:

DIRECTOR

JOSEPH A. SVOBODA, D.P.M.
2308 Anderson
Manhattan, Ks. 66502
(913) 539-7664

My name is Wayne Probasco. I represent the Kansas Podiatric Medical Association and serve as their Executive Secretary.

IMMEDIATE PAST PRESIDENT

DR. FRANK K. GALBRAITH, D.P.M.
758 S. Hillside
Wichita, Ks. 67211
(316) 686-2106

I appear here in favor of Senate Bill No. 603.

MEMBER OF ST. BOARD OF HEALING ARTS

DR. HAROLD J. SAUDER, D.P.M.
209 N. 6th St.
Independence, Ks. 67301
(316) 331-1840

Substantially, this Bill was introduced as Senate Bill No. 35 by Special Committee on Ways and Means, re. Proposal No. 40, which Bill also included other items, which Bill was 69 pages in length. Due to other factors, the portion of that Bill considering Podiatry was not considered and the substitute Bill was introduced.

EXECUTIVE SECRETARY

WAYNE PROBASCO
615 S. Topeka Avenue
Topeka, Ks. 66603
(913) 354-7611

The State Board of Healing Arts is on record at their December, 1987 Meeting, endorsing the passage of this Bill.

This Bill was introduced this Session, a Hearing was had before the Senate Committee on Public Health and Welfare, and after making some admendments, unanimously passed the Bill out of Committee recommending it for passage.

The Bill passed in the Senate by a vote of 40 to 0.

Senate Bill 603 is basically a conforming Bill to conform Podiatry to the other health providers under the State Board of Healing Arts; it changes the language from a Podiatrist being Registered to a Podiatrist being licensed, this conforms with the language as to the other providers; the suspension and revocation procedure is adopted as it is for the other providers, so that Podiatry does not have a separate statute in this regard; it creates a new statute that give the Board the right to fine a Podiatrist for failing to comply with requirements; it establishes an

*ATTN: #1
3-22-88
Phyl.*

House Committee On Public Health & Welfare
Room 423 South, State House
Topeka, Kansas 66603

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March 22, 1988

"Exempt Licensee"; which is a license for an inactive practitioner and the procedure in obtaining an "Active License"; also, the Bill establishes by rules and regulations that the Board has the right to change Continuing Education requirement. When the Senate Committee considered this Bill, there was discussion concerning the duties of the Podiatry Advisory Board and thereafter, there was a motion made and passed to sunset that committee as of December 31, 1988. So, in the event that this Bill passes, the Podiatry Advisory Committee will no longer exist after that date.

We are in favor of the passage of this Bill, as amended.

Very truly yours,


Wayne Probasco

WP/jw

BOARD OF HEALING ARTS

OFFICE OF

RICHARD A. UHLIG, D.O., SECRETARY
 CHARLENE K. ABBOTT, EXECUTIVE SECRETARY
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 DAVID WAXMAN, M.D., LENEXA
 JOHN P. WHITE, D.O., PITTSBURG

TO: House Committee on Public Health & Welfare

FROM: Charlene K. Abbott, Administrative Assistant
 Kansas State Board of Healing Arts

DATE: March 22, 1988

RE: SB-603

At its meeting on December 4, 1987, the State Board of Healing Arts voted to support changes in the Podiatry Laws which would cause podiatrists to be referred to as "licensed" rather than "registered" professionals. This change as incorporated in this bill does not result in a credentialing change since podiatrists already receive a license from the Board and their laws confer licensure status upon them as that term is defined in the credentialing act "K.S.A. 1987 Supp. 65-5001". Also, the Board supported any changes to the Podiatry Laws which would result in closer conformity in procedural and disciplinary matters with the other three professions the Board licenses under the Healing Arts Act. It should be noted that podiatrists are the only profession licensed by the board other than the three branches of the healing arts under the Healing Arts Act.

Senate Bill 603, as amended by the Senate, brings the Podiatry Laws much closer to similar statutes in the Healing Arts Act and the Board is very supportive of this Bill. One amendment to the Bill as it is presently written is suggested. The Board asks that the statutory limitation for annual renewal fees as set forth on lines 400-402 at page 11 of the Bill be increased to \$150. This would make the statutory maximum for renewal fees equal to that for licensees in the healing arts (K.S.A. 1987 Supp. 65-2852(a)(4) and would enable the Board to set renewal fees for all licensees at the same rate. Currently, by rule and regulation, the renewal fees for licensees under the Healing Arts Act are \$115 while renewal fees for podiatrists are at the statutory maximum of \$50.

Thank you very much for the opportunity to appear before you and I would be happy to answer any questions.

sl

*Attn #2
 3-22-88
 PHW*

Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

1260 S.W. Topeka
Topeka, Kansas 66612
(913) 234-5563

March 22, 1988

REG: S.B. 656

Mr. Chairman and Members, House Public Health Committee:

I will be out of town at the time you hear S.B. 656, but KAOM supports passage of this Bill.

At the time this Bill was heard last year, the Legislative intent was clearly to establish a new category of licensees under the Board of Healing Arts, free of the types of restriction of practice rights which were subsequently adopted by the Board. KAOM appeared before the Board in opposition to such restrictions, and we make the same statement to you today.

Our position has always been that fear of misuse of the rights of this category of license (exempt) is speculative at best. If and when there appears to be such misuse, we can address that problem. The osteopathic physicians with whom I have spoken, indicate that they will use this category of licensing in the way that it was intended when we and others sought its passage last Session. We think it should proceed without the restrictions that the Board has attached.

Harold E. Riehm
Executive Director, KAOM

Attn #3
3-22-8
phw



KANSAS MEDICAL SOCIETY

1300 Topeka Avenue · Topeka, Kansas 66612 · (913) 235-2383

March 21, 1988

TO: House Public Health and Welfare Committee

FROM: Jerry Slaughter
Executive Director *J. Slaughter*

SUBJECT: SB 656; Concerning Exempt Licenses

The Kansas Medical Society appreciates the opportunity to comment on SB 656, which was introduced at our request.

SB 656 amends that portion of the Healing Arts Act which was enacted last year in the form of 1987 Senate Bill 36, a provision which exempts retiring physicians from the mandatory malpractice insurance requirement as well as the continuing medical education requirement. The intention of that legislation in 1987 was to allow physicians who still had a contribution of make in the form of volunteer work, administrative responsibilities and other patient and non-patient care activities, to do so without having to carry the outrageously high liability insurance required of all physicians by law. A copy of our testimony on 1987 SB 36 is enclosed for your information.

SB 656 would clarify that physicians holding an exempt license would have all the privileges attendant to that branch of the healing arts for which he or she is licensed. This comes about because the Board of Healing Arts, through the rule and regulation process, has placed certain restrictions on what exempt licensees may do. For example, they have prohibited exempt licensees who hold a license to practice medicine and surgery from writing any prescriptions for controlled substances. Notwithstanding the fact that the law did not authorize the Board to place restrictions on licenses, their action simply does not make sense. How can a physician provide a full range of volunteer work upon retirement, if he or she is unable to write certain prescriptions? The way the regulations currently read, presumably a physician holding an exempt license could do surgery, but could not write a prescription for many useful and common medications. Also attached is a copy of a letter we wrote to the Board of Healing Arts in October, when we commented on this same problem during the rule and regulation process.

Obviously, the Board of Healing Arts has a responsibility to properly regulate every person licensed under its jurisdiction. However, we believe in this instance the Board went beyond the authority granted it by the legislature. Consequently, the amendment we are suggesting in SB 656 should make it clear that the arbitrary limitations imposed by the Board on an exempt license are not appropriate. We appreciate your consideration of these remarks and urge you to report the bill favorably. Thank you.

JS:nb

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3-22-88
PHW*

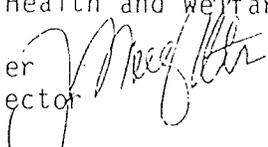


KANSAS MEDICAL SOCIETY

1300 Topeka Avenue · Topeka, Kansas 66612 · (913) 235-2383

March 26, 1987

TO: House Public Health and Welfare Committee

FROM: Jerry Slaughter
Executive Director 

SUBJECT: SB 36; Exempting Certain Health Care Providers
from the Mandatory Malpractice Insurance Requirement

The Kansas Medical Society appreciates the opportunity to comment on SB 36, which exempts certain licensees of the Board of Healing Arts from the mandatory medical malpractice insurance requirement.

The intent of SB 36 is to allow certain physicians who have retired from active practice to maintain their full license so that they can provide a valuable service in the area of volunteer work, administrative duties, incidental consulting and a variety of other activities which require a license to practice medicine. Currently, with malpractice insurance costs so high, it is not feasible for a physician to maintain an active license even though many of the activities described above require that a licensee have a full license in order to provide such services. It is important to note that SB 36 does not exempt physicians or the organizations they volunteer or work for from liability. The bill merely exempts such licensees from the mandatory insurance, as well as the continuing education requirements as specified by the Board. Physicians affected by this bill may choose to carry insurance purchased on the private market, or have it provided by the organizations that employ them. However, enactment of this legislation would remove the necessity to buy the required primary limits, as well as contribute to the Health Care Stabilization Fund.

The bill accomplishes its purpose by creating an "exempt" license issued by the Board of Healing Arts to physicians who are no longer regularly engaged in the practice of medicine, and who do not hold themselves out to the public as being professionally engaged in the practice of medicine. The bill, obviously, gives the Board the discretion and flexibility to issue exempt licenses based on each individual physician's application.

We would like to suggest one amendment, which was really an oversight and should have been dealt with earlier. We believe the bill should take effect upon publication in the Kansas Register, instead of July 1, so that some physicians could actually apply for and possibly receive an exempt license during this renewal period.

We think this legislation is an excellent solution to the problem faced by many physicians who would like to remain productive in certain limited activities, but are unable to do so because of the malpractice laws. We urge your favorable consideration of SB 36, with the amendment mentioned above. Thank you for the opportunity to appear, and we appreciate your consideration of these comments.

JS:nb

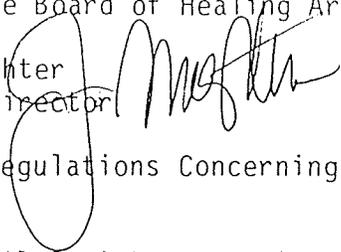


KANSAS MEDICAL SOCIETY

1300 Topeka Avenue • Topeka, Kansas 66612 • (913) 235-2383

October 7, 1987

TO: Kansas State Board of Healing Arts

FROM: Jerry Slaughter
Executive Director 

SUBJECT: Rules and Regulations Concerning Exempt Licenses

The Kansas Medical Society appreciates the opportunity to offer these brief comments about the rules and regulations implementing the provisions of SB 36 relating to exempt licenses.

Generally, we are in agreement with the intent of the regulations, but we do take issue with two important sections as follows:

Article ^{10a-1(10)}~~10a-10~~. This regulation requires that an exempt licensee must notify each person to which professional services are rendered that the licensee is not insured by the Health Care Stabilization Fund. We believe this regulation is unnecessary, impractical, and not authorized by the statute. First, there is no similar obligation on all other health care professionals or other licensed professionals by the state to notify any person to whom they render services whether or not they are insured. The fact that the licensee has already signed an affidavit acknowledging that they are not covered by the HCSF, in our opinion is sufficient. Further, it is impractical for a physician doing administrative functions, for example, to notify every person or entity he or she comes in contact with that he or she is not insured by the HCSF. We would recommend this regulation be deleted entirely.

Article 10a-4. Criteria. The issue in this regulation with which we take strong exception is the prohibition on prescribing drugs found in 10a-4(c)(4). This prohibition is inappropriate for two reasons: One, during the consideration of this legislation it was specifically pointed out on many occasions that the legislation should be broad so as not to limit the activities a physician may engage in with an exempt license. The only restriction in the law

is that the holder of an exempt license be "no longer regularly engaged in such practice and who does not hold oneself out to the public as being professionally engaged in such practice." Simply put, the Board does not have statutory authority to pick and choose which services they may prohibit an exempt licensee from performing. As the regulation is currently written, an exempt licensee would be prohibited from prescribing a cold medication to an indigent patient in a free clinic on a volunteer basis, but presumably that same physician would be able to do surgery, since it is not prohibited by the regulations.

The point here is that the legislature specifically did not prohibit any activities, since it wanted to encourage physicians to stay active and provide professional services on a volunteer basis, for example. The prohibition on prescribing drugs is clearly not authorized in this statute and should be deleted from the draft regulations.

Thank you for the opportunity to offer these comments, and if you have any questions we would be happy to respond.

JS:nb

TESTIMONY ON SENATE BILL 656

FEBRUARY 25, 1988

LIEUTENANT GOVERNOR JACK WALKER

In the 1987 Legislative Session, the Kansas Medical Society submitted a bill which would create an exempt license for retired physicians in Kansas. I learned of this action only after the bill had passed through all of the legislative hurdles and had been signed into law. Only at that time did I become aware of this possibility for a so called exempt license which would allow those of us who are retired Kansas physicians to: (1) Contribute medical services on a voluntary basis (not for pay) to groups who are constantly asking for free medical service—and (2) to write prescriptions for family, selected former long standing patients, perhaps poor people and sometimes for selected friends and relatives.

This action on the part of the 1987 Legislature sounded good to me for I immediately felt that I would be interested in obtaining such an exempt license because I am often called upon to do just those things including prescriptions at times for some of you on the Senate Public Health and Welfare Committee or staff. At the present time I am unable to do that anymore because I am unwilling to commit myself to the five or six thousand dollars worth of malpractice premiums that would be required for me to hold a regular license in Kansas.

The legislation passed last year exempted two areas. (1) Continuing Medical Education and (2) Exempted participation in Health Provider Malpractice Insurance Program.

The 1987 amendment stipulated only that the Healing Arts Board "shall adopt rules and regulations establishing appropriate CME requirements for exempt licensees to become regular licensees again".

The board was slow in implementing this legislation. In the fall of 1987 they submitted rules and regulations to establish the so called exempt license. The rules and regulations they submitted at that time said—the holder of such an exempt license could not prescribe

*Attn #5
3-22-8
PhW*

drugs. This action was greeted with disbelief, and literally stripped the exempt license from at least one-half of its reason for existence. It was an insult to every retired physician in Kansas who might wish to avail himself of such a license including myself. It was like saying to auto mechanic, we like you, we recognize your long honorable contribution to Kansas medicine and we are going to let you work on a few cars, but we are not going to give you the basic tools to work with.

There was strong opposition by KMS and by me and by others to this unbelievable rule. It was unbelievable because it just did not make sense but also technically I considered it to be illegal since the Healing Arts Board was not told or even given authority by the amendment passed in 1987 to make this type of stipulation as it related to this new type of exempt license.

The Healing Arts Board agreed to reconsider the action and in December of 1987 came up with new rules and regulations. This time they said that the exempt license holder could write prescriptions but not for any drugs listed under the Controlled Substance federal law.

This was an even worse slap in the face for any of us who might consider applying for such a license. It implies that us old retired senior citizens can no longer be trusted with the large group of drugs under the Controlled Substance Act, even though we have practiced medicine in Kansas for 30 years with never the slightest hint of violation of our medical profession responsibilities or abuse of our prescribing rights.

There are five classes of drugs under the Controlled Substance Law. They range all the way from the very hard narcotics, morphine, demerol, cocaine, etc. to a large group of relatively safe, widely prescribed drugs such as ASA with codeine, cough preparations containing codeine, mild tranquilizers, lomotil for diarrhea, etc. Personally, I don't think I have ever prescribed morphine or demerol or any of the substances in that class on an outpatient basis and would see no need to do so under an exempt license. Most of the time when physicians prescribe that class of controlled substances it occurs within the hospital setting. However, it is

relatively common to prescribe drugs under Class 3 & 4 of the Controlled Substance Act.

As an exempt license holder, not in private practice, I probably would write thirty to fifty prescriptions a year and only a few of them would fall under the Controlled Substance Act.

The amendment that is proposed in Senate Bill 656 is to correct an action by the Kansas Board of Healing Arts that is distasteful and embarrassing to me and to every retired physician in the state of Kansas who might elect to use this exempt license status and to correct an action that was never intended by the legislative action of 1987 and finally to correct a rule which was totally unnecessary.

If there exists any validity to establish an exempt license category, and apparently there was in the 1987 Legislature, which would permit us retired physicians to perform voluntary medical work including writing an occasional prescription for our family, for long standing selected patients, for friends, relatives, and perhaps poor people, then I urge you to accept this amendment.

If there is no validity to such an exempt license I would rather you would rescind your action of last year and not authorize such a license. I believe it should be one way or the other. There either should be no exempt license status or there should be an exempt license which restricts the holder to voluntary medical actions, not for pay, which exempts the holder from the continuing education requirement, which exempts the holder from participating in the medical malpractice fund but in every other way gives the exempt holder the same privileges which exists for the holder of a regular Kansas license.

TESTIMONY ON SENATE BILL 656

FEBRUARY 25, 1988

LIEUTENANT GOVERNOR JACK WALKER

In the 1987 Legislative Session, the Kansas Medical Society submitted a bill which would create an exempt license for retired physicians in Kansas. I learned of this action only after the bill had passed through all of the legislative hurdles and had been signed into law. Only at that time did I become aware of this possibility for a so called exempt license which would allow those of us who are retired Kansas physicians to: (1) Contribute medical services on a voluntary basis (not for pay) to groups who are constantly asking for free medical service—and (2) to write prescriptions for family, selected former long standing patients, perhaps poor people and sometimes for selected friends and relatives.

This action on the part of the 1987 Legislature sounded good to me for I immediately felt that I would be interested in obtaining such an exempt license because I am often called upon to do just those things including prescriptions at times for some of you on the Senate Public Health and Welfare Committee or staff. At the present time I am unable to do that anymore because I am unwilling to commit myself to the five or six thousand dollars worth of malpractice premiums that would be required for me to hold a regular license in Kansas.

The legislation passed last year exempted two areas. (1) Continuing Medical Education and (2) Exempted participation in Health Provider Malpractice Insurance Program.

The 1987 amendment stipulated only that the Healing Arts Board "shall adopt rules and regulations establishing appropriate CME requirements for exempt licensees to become regular licensees again".

The board was slow in implementing this legislation. In the fall of 1987 they submitted rules and regulations to establish the so called exempt license. The rules and regulations they submitted at that time said—the holder of such an exempt license could not prescribe

drugs. This action was greeted with disbelief, and literally stripped the exempt license from at least one-half of its reason for existence. It was an insult to every retired physician in Kansas who might wish to avail himself of such a license including myself. It was like saying to auto mechanic, we like you, we recognize your long honorable contribution to Kansas medicine and we are going to let you work on a few cars, but we are not going to give you the basic tools to work with.

There was strong opposition by KMS and by me and by others to this unbelievable rule. It was unbelievable because it just did not make sense but also technically I considered it to be illegal since the Healing Arts Board was not told or even given authority by the amendment passed in 1987 to make this type of stipulation as it related to this new type of exempt license.

The Healing Arts Board agreed to reconsider the action and in December of 1987 came up with new rules and regulations. This time they said that the exempt license holder could write prescriptions but not for any drugs listed under the Controlled Substance federal law.

This was an even worse slap in the face for any of us who might consider applying for such a license. It implies that us old retired senior citizens can no longer be trusted with the large group of drugs under the Controlled Substance Act, even though we have practiced medicine in Kansas for 30 years with never the slightest hint of violation of our medical profession responsibilities or abuse of our prescribing rights.

There are five classes of drugs under the Controlled Substance Law. They range all the way from the very hard narcotics, morphine, demerol, cocaine, etc. to a large group of relatively safe, widely prescribed drugs such as ASA with codeine, cough preparations containing codeine, mild tranquilizers, lomotil for diarrhea, etc. Personally, I don't think I have ever prescribed morphine or demerol or any of the substances in that class on an outpatient basis and would see no need to do so under an exempt license. Most of the time when physicians prescribe that class of controlled substances it occurs within the hospital setting. However, it is

relatively common to prescribe drugs under Class 3 & 4 of the Controlled Substance Act.

As an exempt license holder, not in private practice, I probably would write thirty to fifty prescriptions a year and only a few of them would fall under the Controlled Substance Act. The amendment that is proposed in Senate Bill 656 is to correct an action by the Kansas Board of Healing Arts that is distasteful and embarrassing to me and to every retired physician in the state of Kansas who might elect to use this exempt license status and to correct an action that was never intended by the legislative action of 1987 and finally to correct a rule which was totally unnecessary.

If there exists any validity to establish an exempt license category, and apparently there was in the 1987 Legislature, which would permit us retired physicians to perform voluntary medical work including writing an occasional prescription for our family, for long standing selected patients, for friends, relatives, and perhaps poor people, then I urge you to accept this amendment.

If there is no validity to such an exempt license I would rather you would rescind your action of last year and not authorize such a license. I believe it should be one way or the other. There either should be no exempt license status or there should be an exempt license which restricts the holder to voluntary medical actions, not for pay, which exempts the holder from the continuing education requirement, which exempts the holder from participating in the medical malpractice fund but in every other way gives the exempt holder the same privileges which exists for the holder of a regular Kansas license.