

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

MINUTES: JANUARY 19, 1993

Approved
January 21, 1993
phv

CONFEREES: Pat Johnson, Executive Administrator of Kansas State Board of Nursing.
Candy Bahner, Legislative Chair of Kansas Physical Therapy Assn.
Stephen A. Hurst, Director of Kansas Water Office

Chairperson Flower called the meeting to order, welcoming all present. She recognized a long term former member of this Committee, Frank Buehler, who was visiting today. Rep. Buehler was warmly welcomed by his friends.

Chair drew attention to the Agenda, noting there were several present with bill requests.

Pat Johnson, Kansas State Board of Nursing, offered hand/out (Attachment No.1) draft of legislation on the qualification and authorization; unlawful acts concerning the board of nursing. She gave a detailed explanation and rationale of the requested legislation. She noted much of the bill will deal with cleanup language, however, one major point deals with the board examination, i.e., after an applicant has failed the examination four times, they would be required to take additional education before taking the examination again. She answered numerous questions. Rep. Swall moved to introduce this legislation, seconded by Rep. Samuelson.

(Attachment No.2), draft of legislation concerning administration of intravenous fluid therapy, and qualification of licensed practical nurses administering same. She gave a detailed explanation, and rationale. She noted this legislation has been previously proposed, but this year, there is a focus on increased education for those persons administering intravenous fluid therapy. Rep. Samuelson moved to introduce this legislation, seconded by Rep. Scott.

(Attachment NO.3) draft of legislation concerning licensure of nurses and mental health technicians; investigations by state board of nursing of unlawful acts and crimes. She again gave a detailed explanation, noting this is primary clean up language with new language being added to address (publicly censured), to strengthen penalty code for violators of the nurse practice act. She detailed rationale. She answered numerous questions. Rep. Scott moved to introduce this legislation, seconded by Rep. Wagle.

A lengthy discussion ensued. Vote taken on all three proposed pieces of legislation requested by the board of nursing. Motion carried.

Candy Bahner, Kansas Physical Therapy Association drew attention to hand-out (Attachment No.4) a letter of request for legislation and an explanation of the early history on this bill as it appeared in 1992 as SB64. This legislation would allow Kansas consumers to receive physical therapy services for up to 21 days without a physician referral. Currently a physician's order must be issued prior to receiving physical therapy treatments. She drew attention to (Attachment No.5) draft of proposed legislation. She then answered numerous questions, i.e., a follow-up discussion has been held with the Kansas Medical Society who now agrees to 10 days, not 21 as requested by this proposed legislation. There has been no further discussion (since last Session) with the Kansas Chiropractic Association or the Kansas Association of Osteopathic Medicine.

After a lengthy discussion, Chair reminded members they need only to ask questions today that deal with whether or not the bill warrants introduction.

Rep. Wagle moved to introduce this proposed legislation, seconded by Rep. Scott. No further discussion. Motion carried.

Stephen Hurst, Director of Kansas Water Office drew attention to legislation proposed that would determine regulations for the sale of drinking water treatment units by this Industry. He gave a detailed explanation, noting grave concern for consumers that have been sold units that are unnecessary, many of which do not measure up to the claims made. The proposed legislation in (Attachment No.6) could make it unlawful for a seller to sell a drinking water treatment unit unless each model has been tested by an independent third party, and other regulations that are detailed in hand-out. He answered numerous questions. It was noted the independent screening

authority will be given to the County Extension Offices. Discussion was held on how the funding would be made available, and it was noted it will be funded through taxes.

(Note: This bill draft was not available for each Committee member during the initial discussion, but had been presented to the Chairperson. Is now shown as (Attachment No.6)).

Rep. Wagle moved to introduce this proposed legislation, seconded by Rep. Bruns. Motion carried.

Chairperson Flower noted there would be further opportunities for additional bill requests.

Meeting adjourned 1/19/93 at 2:15 p.m.
Next meeting will be 1/20/93 .

VISITOR REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

DATE Jan. 19, 1993

NAME	ORGANIZATION	ADDRESS
Heather Gray	intern	Lawrence
KETH R LANDIS	CHRISTIAN SCIENCE COMM ON PUBLICATION FOR KS	TOPEKA
DALJIT SINGH JAWA	KS. WATER OFFICE	TOPEKA
Candy Bahner, PT	Kansas Physical Ther. Assoc	Topeka
FRANCES Kastner	"KPTA" " "	Topeka
BRYANT DOANE	CONUS & CONSULTING GRP	TOPEKA / WICHITA
Kathy Addington RN	Storment Vail Home Health	Topeka
Muriel Spier	Southern Hospice	Louisburg
Sharon Jaworski	Southern Private Duty	Ottawa
FRANK BERTLER		CLARKIA F.
Douglas R. Langston	Medstaff Nursing	Great Bend, KS
Theresa Schwartz	Top SNCO Home Health Agency	Topeka
Pam Doyle, RN MS	Storment Vail Home Health Care	Topeka
Steven Walz	w/ John C. Peterson	Top.
Julio J. Fleit	FDIP, FORT & KSCA	Topeka
Patty Sandmyer	SRS	
Steve Chandler	KD.TA	Haworth, KS
Jodie Sandmyer	KPTA	Marshall
Richard C. Gohn	KS Home Care Assoc	Wichita
Steve Hunt	KS Water Office	Topeka
Deborah Washam	Healthcor	Leawood
Kristin Reed	HealthCor	MISSION
Dinger Kane	Intern	Baxter Springs
David Hanzlick	KS Dental Ass'n	Topeka
Canda Byrne	KSNA	Topeka

#1.

PROPOSED BILL NO. _____

By

AN ACT concerning the board of nursing; licensure, qualification and authorization; unlawful acts; amending K.S.A. 65-1114, 65-1115, 65-1116, 65-1117, 65-1118, 65-1118a, 65-1132, 65-1152, 65-1155, 65-4203 and 65-4205 and repealing the existing sections; also repealing K.S.A. 65-1156, 65-1157 and 65-1160.

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

Section 1. K.S.A. 65-1114 is hereby amended to read as follows: 65-1114. (a) It ~~shall-be~~ is unlawful for any person to:

(1) ~~To~~ Practice or to offer to practice professional nursing in this state; ~~or~~

(2) ~~to~~ use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is a registered professional nurse; ~~or~~

(3) ~~to~~ practice or offer to practice practical nursing in this state; ~~or~~

(4) ~~to~~ use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is a licensed practical nurse,

unless such person has been duly licensed under the ~~provisions-of~~ this-act Kansas nurse practice act.

(b) It ~~shall-be~~ is unlawful for any person to:

(1) ~~To~~ Practice or offer to practice as an advanced registered nurse practitioner in this state; ~~or~~

(2) ~~to~~ use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is an advanced registered nurse practitioner,

unless such person has been duly issued a certificate of qualification as an advanced registered nurse practitioner under

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the Kansas nurse practice act.

(c) It is unlawful for any person to:

(1) Practice or to offer to practice as a registered nurse anesthetist in this state; or

(2) use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is a registered nurse anesthetist,

unless such person has been duly authorized as a registered nurse anesthetist under the Kansas nurse practice act.

Sec. 2. K.S.A. 65-1115 is hereby amended to read as follows:

65-1115. (a) Qualifications of applicants. An applicant for a license to practice as a registered professional nurse shall file with the board written application for a license and submit satisfactory proof that the applicant: (1) Has graduated from a high school accredited by the appropriate legal accrediting agency or has obtained the equivalent of a high school education, as determined by the state department of education; (2) has successfully completed the basic professional curriculum in an accredited school of professional nursing and holds evidence of graduation from the school or has successfully completed the basic professional curriculum in a school of professional nursing located outside this state which maintains standards at least equal to schools of professional nursing which are accredited by the board and holds evidence of graduation from the school; (3) has been satisfactorily rehabilitated if the applicant has ever been convicted of a felony; and (4) has obtained other qualifications not in conflict with this act as the board may prescribe.

(b) License. (1) By examination. An applicant shall be required to pass an examination in such subjects as the board may prescribe. Each examination may be supplemented by an oral or practical examination. Upon successfully passing such examinations the board shall issue to the applicant a license to practice nursing as a registered professional nurse.

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(2) Without examination. The board may issue a license to practice nursing as a registered professional nurse without examination to an applicant who has been duly licensed or registered as a registered professional nurse by examination under the laws of another state, territory or foreign country if, in the opinion of the board, the applicant meets the qualifications required of a licensed professional nurse in this state.

(3) Persons licensed under previous law. Any person who was licensed immediately prior to the effective date of this act as a registered professional nurse, shall be deemed to be licensed as a registered professional nurse under this act and shall be eligible for renewal licenses upon compliance with K.S.A. 65-1117 and any amendments thereto.

(4) Repeated examination failure. Persons who are unsuccessful in passing the licensure examination after four failures shall petition the board for permission prior to subsequent attempts. The board may require the applicant to submit and complete a plan of study prior to taking the licensure examination for the fifth time or any subsequent attempt.

(c) Title and abbreviation. Any person who holds a license to practice as a registered professional nurse in this state shall have the right to use the title, "registered nurse," and the abbreviation, "R.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs or figures to indicate that the person is a registered professional nurse.

(d) Temporary permit. The board may issue a temporary permit to practice nursing as a registered professional nurse for a period not to exceed 60 90 days,--except--that. The 90-day temporary permit may be renewed for an additional 30 days but not to exceed a combined total of 120 days. The board may issue a temporary permit to practice nursing as a registered professional nurse for a period not to exceed 180 days to an applicant for a

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license as a registered professional nurse who is enrolled in a refresher course required by the board for reinstatement of a license which has lapsed for more than five years or for licensure in this state from another state if the applicant has not been engaged in practice of nursing for five years preceding application. The 180-day temporary permit may be renewed by the board for one additional period not to exceed 180 days.

Sec. 3. K.S.A. 65-1116 is hereby amended to read as follows:

65-1116. (a) Qualification. An applicant for a license to practice as a licensed practical nurse shall file with the board a written application for a license and submit to the board satisfactory proof that the applicant: (1) Has graduated from a high school accredited by the appropriate legal accrediting agency or has obtained the equivalent of a high school education, as determined by the state department of education; (2) has successfully completed the prescribed curriculum in an accredited school of practical nursing and holds evidence of graduation from the school or has successfully completed the prescribed curriculum in an accredited school of practical nursing located outside this state which maintains standards at least equal to schools of practical nursing which are accredited by the board and holds evidence of graduation from the school; and (3) has obtained other qualifications not in conflict with this act as the board may prescribe.

(b) License. (1) By examination. The applicant shall be required to pass an examination in such subjects as the board may prescribe. Each examination may be supplemented by an oral or practical examination. Upon successfully passing such examinations, the board shall issue to the applicant a license to practice as a licensed practical nurse. (2) Without examination. The board may issue a license to practice as a licensed practical nurse without examination to any applicant who has been duly licensed or registered by examination as a licensed practical nurse or a person entitled to perform similar services under a

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different title under the laws of any other state, territory or foreign country if, in the opinion of the board, the applicant meets the requirements for licensed practical nurses in this state. (3) Renewal license. A licensed practical nurse licensed under this act shall be eligible for renewal licenses upon compliance with K.S.A. 65-1117 and any amendments thereto. (4) Repeated examination failure. Persons who are unsuccessful in passing the licensure examination after four failures shall petition the board for permission prior to subsequent attempts. The board may require the applicant to submit and complete a plan of study prior to taking the licensure examination for the fifth time or any subsequent attempt.

(c) Title and abbreviation. Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title, "licensed practical nurse," and the abbreviation, "L.P.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs or figures to indicate that the person is a licensed practical nurse.

(d) Temporary permit. The board may issue a temporary permit to practice nursing as a licensed practical nurse for a period not to exceed ~~60 days, except that~~ 90 days. The 90-day temporary permit may be renewed for an additional 30 days not to exceed a combined total of 120 days. The board may issue a temporary permit to practice nursing as a licensed practical nurse for a period not to exceed 180 days to an applicant for a license as a licensed practical nurse who is enrolled in a refresher course required by the board for reinstatement of a license which has lapsed for more than five years or for licensure in this state from another state if the applicant has not been engaged in practice of nursing for five years preceding application. The 180-day temporary permit may be renewed by the board for one additional period not to exceed 180 days.

Sec. 4. K.S.A. 65-1117 is hereby amended to read as follows:

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65-1117. (a) All licenses issued under the provisions of this act, whether initial or renewal, shall expire every two years. The expiration date shall be established by the rules and regulations of the board. The board shall mail an application for renewal of license to every registered professional nurse and licensed practical nurse at least 60 days prior to the expiration date of such person's license. Every person so licensed who desires to renew such license shall file with the board, on or before the date of expiration of such license, a renewal application together with the prescribed biennial renewal fee. Every licensee who is no longer engaged in the active practice of nursing may so state by affidavit and submit such affidavit with the renewal application. An inactive license may be requested along with payment of a fee which shall be fixed by rules and regulations of the board. The board shall require every licensee ~~in-the~~ with an active practice--of nursing within--the--state license to submit with the renewal application evidence of satisfactory completion of a program of continuing education required by the board. The board by duly adopted rules and regulations shall establish the requirements for such program of continuing education. ~~In--establishing--such--requirements--the board--shall--consider--any--existing--programs---of---continuing education--currently--being--offered--to--such--licensees--by--medical care--facilities.~~ Upon receipt of such application, payment of fee, upon receipt of the evidence of satisfactory completion of the required program of continuing education and upon being satisfied that the applicant meets the requirements set forth in K.S.A. 65-1115 or 65-1116 and amendments thereto in effect at the time of initial licensure of the applicant, the board shall verify the accuracy of the application and grant a renewal license.

(b) Any person who fails to secure a renewal license within the time specified herein may secure a ~~renewal~~ reinstatement of such lapsed license by making verified application therefor on a

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form provided by the board, by rules and regulations, and upon furnishing proof that the applicant is competent and qualified to act as a registered professional nurse or licensed practical nurse and by satisfying all of the requirements for ~~renewal set forth in subsection (a)~~, reinstatement including payment to the board of a reinstatement fee as established by the board.

(c) Each licensee shall notify the board in writing of a change in name or address within 30 days of the change. Failure to so notify the board shall not constitute a defense in an action relating to failure to renew a license, nor shall it constitute a defense in any other proceeding.

Sec. 5. K.S.A. 65-1118 is hereby amended to read as follows: 65-1118. (a) The board shall collect in advance fees provided for in this act as fixed by the board, but not exceeding:

Application for license--professional nurse.....	\$75
Application for license--practical nurse.....	50
Application for biennial renewal of license--professional nurse and practical nurse	40 60
Application for reinstatement of license.....	50 70
Application for reinstatement of licenses with temporary permit.....	100
Certified copy of license.....	25
Duplicate of license.....	25
Inactive license.....	20
Application for certificate of qualification--advanced registered nurse practitioner.....	50
Application for certificate of qualification with temporary permit--advanced registered nurse practitioner.....	100
Application for renewal of certificate of qualification--advanced registered nurse practitioner.....	20
Application for reinstatement of certificate of qualification--advanced registered nurse practitioner.....	50
Application for authorization--registered nurse anesthetist.....	75
Application for authorization with temporary authorization--registered nurse anesthetist....	110

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Application for biennial renewal of authorization--registered nurse anesthetist....	60
Application for reinstatement of authorization--registered nurse anesthetist....	75
Application for reinstatement of authorization with temporary authorization--registered nurse anesthetist.....	100
<u>Verification of license to another state.....</u>	<u>30</u>

(b) The board may require that fees paid for any examination under the Kansas nurse practice act be paid directly to the examination service by the person taking the examination.

Sec. 6. K.S.A. 65-1118a is hereby amended to read as follows: 65-1118a. (a) The board shall collect fees provided for in this act as fixed by the board, but not exceeding:

Application for accreditation--schools of nursing.....	\$1,000
Biennial-----renewal Annual fee of accreditation--schools of nursing.....	500 400
Application for approval of continuing education providers.....	200
Annual fee for continuing education providers...	75
Approval of single continuing education offerings.....	100
Consultation by request, not to exceed per day on site.....	400
<u>Application for course of intravenous fluid therapy.....</u>	<u>100</u>

(b) In addition to the above prescribed fees, consultants' travel expenses shall be charged to the person, firm, corporation or institution requesting consultation services to be provided by the board.

Sec. 7. K.S.A. 65-1132 is hereby amended to read as follows: 65-1132. (a) All certificates of qualification issued under the provisions of this act, whether initial or renewal, shall expire every two years. The expiration date shall be established by rules and regulations of the board. The board shall mail an application for renewal of a certificate of qualification to every advanced registered nurse practitioner at least 60 days

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prior to the expiration date of such person's license. Every person who desires to renew such certificate of qualification shall file with the board, on or before the date of expiration of such certificate of qualification, a renewal application together with the prescribed biennial renewal fee. The board shall require every licensee with an active certification as an advanced registered nurse practitioner to submit with the renewal application evidence of satisfactory completion of a program of continuing education required by the board. The board shall adopt rules and regulations to establish the requirements for such program of continuing education. Upon receipt of such application and payment of any applicable fee, and upon being satisfied that the applicant for renewal of a certificate of qualification meets the requirements established by the board under K.S.A. 65-1130 and amendments thereto in effect at the time of initial qualification of the applicant, the board shall verify the accuracy of the application and grant a renewal certificate of qualification.

(b) Any person who fails to secure a renewal certificate of qualification prior to the expiration of the certificate of qualification may secure a ~~renewal~~ reinstatement of such lapsed certificate of qualification by making application therefor on a form provided by the board, upon furnishing proof that the applicant is competent and qualified to act as an advanced registered nurse practitioner and upon satisfying all of the requirements for ~~renewal~~ reinstatement including payment to the board of a reinstatement fee as established by the board.

~~(c) Any person who on June 20, 1982, held a certificate of qualification as an advanced registered nurse practitioner may secure a certificate of qualification as an advanced registered nurse practitioner under this act by making application therefor on a form provided by the board, by furnishing proof that the applicant is competent and qualified to act as an advanced~~

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registered-nurse--practitioner,--by--furnishing--proof--that--any applicable-continuing-education-requirement-has-been-satisfied-by the--applicant--and--by--paying--to--the-board-a-fee-equal-to-the prescribed-biennial-renewal--fee--as--established--by--the--board reduced--(but--not--below-zero)--by-an-amount-computed-by-dividing the-fee-paid-for-the-certificate-of-qualification-as-an--advanced registered-nurse-practitioner-by-the-person-who-on-June-20,--1982, held--such--certificate--by--24--and-multiplying-that-amount-by-a number-equal-to-the-number-of-whole-months-which--remained--after June-20,--1982,--before-such-certificate-would-have-expired.

Sec. 8. K.S.A. 65-1152 is hereby amended to read as follows: 65-1152. (a) In order to obtain authorization from the board of nursing to practice as a registered nurse anesthetist an individual shall meet the following requirements:

(1) Is licensed to practice professional nursing under the Kansas nurse practice act;

(2) has successfully completed a course of study in nurse anesthesia in a school of nurse anesthesia accredited or approved by the board; and

(3) has successfully completed an examination approved by the board or has been certified by a national organization whose certifying standards are approved by the board as equal to or greater than the corresponding standards established under this act for obtaining authorization to practice as a registered nurse anesthetist.

(b) Accreditation of schools of nurse anesthesia shall be based on accreditation standards specified in K.S.A. 65-1119 and amendments thereto.

~~(b)~~ (c) Schools of nurse anesthesia accredited or approved by the board under this section may offer, but shall not be required to offer, a masters level degree program in nurse anesthesia.

~~(c)~~ (d) For the purposes of determining whether an individual meets the requirements of item (2) of subsection (a),

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the board by rules and regulations shall establish criteria for determining whether a particular school of nurse anesthesia maintains standards which are at least equal to schools of nurse anesthesia which are accredited or approved by the board. The board may send a questionnaire developed by the board to any school of nurse anesthesia for which the board does not have sufficient information to determine whether the school meets the standards established under this subsection ~~(c)~~ (d). The questionnaire providing the necessary information shall be completed and returned to the board in order for the school to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about schools of nurse anesthesia. In entering such contracts the authority to approve schools of nurse anesthesia shall remain solely with the board.

Sec. 9. K.S.A. 65-1155 is hereby amended to read as follows:
 65-1155. (a) All authorizations to practice under this act, whether initial or renewal, shall expire every two years. ~~To provide-for-a-system-of~~ The biennial authorizations to practice as a registered nurse anesthetist ~~that shall~~ shall expire at the same time as the license to practice as a registered nurse, ~~the--board may--provide--by--rules--and--regulations--that--authorizations-to practice--issued-or-renewed-for-the-first-time-after-the-effective date-of-this-act-may-expire-less-than-two-years-from-the-date--of issuance--or--renewal.--In each case in which an authorization to practice is issued or renewed for a period of time less than--two years,--the--board--shall--prorate-to-the-nearest-whole-month-the authorization-to-practice-original-application-fee-or-renewal-fee established-pursuant-to-K.S.A.-65-1154--and--amendments--thereto.~~
 The board shall mail an application for renewal of the authorization to practice to every registered nurse anesthetist at least ~~90~~ 60 days prior to the expiration date of such person's authorization to practice. To renew such authorization to practice the registered nurse anesthetist shall file with the

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board, before the date of expiration of such authorization to practice, a renewal application together with the prescribed biennial renewal fee. Upon satisfaction of the requirements of subsection (a) of K.S.A. 65-1159 and amendments thereto the board shall grant the renewal of an authorization to practice as a registered nurse anesthetist to the applicant.

(b) Any person who fails to secure the renewal of an authorization to practice prior to the expiration of the authorization may secure a ~~renewal~~ reinstatement of such lapsed authorization by making application on a form provided by the board. Such ~~renewal~~ reinstatement shall be granted upon receipt of proof that the applicant is competent and qualified to act as a registered nurse anesthetist, has satisfied all of the requirements ~~for-renewal-set-forth-in-subsection-(a)~~ and has paid the board a reinstatement fee as established by the board by rules and regulations ~~in-an-amount-not-to-exceed-\$80~~.

Sec. 10. K.S.A. 65-4203 is hereby amended to read as follows: 65-4203. (a) Except as is hereinafter provided, an applicant for a license to practice as a mental health technician shall file with the board a written application for such license, on forms prescribed by the board, and shall submit satisfactory evidence that the applicant:

(1) Has been satisfactorily rehabilitated if the applicant has ever been convicted of a felony;

(2) possesses a high school education or its recognized equivalent; and

(3) has satisfactorily completed an approved course of mental health technology.

(b) A license to perform as a mental health technician may only be issued by the board to an applicant:

(1) Meeting the qualifications set forth in subsection (a) and who has successfully passed a written examination in mental health technology as prescribed and conducted by the board; or

(2) ~~to---an---applicant~~ who has been duly licensed by

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examination under the laws of another state, territory or foreign country if, in the opinion of the board, the requirements for licensure in such other jurisdiction equal or exceed the qualifications required to practice as a mental health technician in this state.

(c) Persons who are unsuccessful in passing the licensure examination after four failures shall petition the board for permission prior to subsequent attempts. The board may require the applicant to submit and complete a plan of study prior to taking the licensure examination for the fifth time or any subsequent attempt.

~~(c)~~ (d) The board may issue a one-time temporary permit to practice as a mental health technician for a period not to exceed 60 days when a reinstatement application has been made.

~~(d)~~ (e) The board may adopt rules and regulations as necessary to administer the mental health technician's licensure act.

Sec. 11. K.S.A. 65-4205 is hereby amended to read as follows: 65-4205. ~~(a) On or before September 17, 1983, the board shall mail an application for renewal of license to all licensed mental health technicians. Commencing with the 1984 calendar year, all licenses of mental health technicians, whether initial or renewal, shall expire on December 31 of the second calendar year after issuance. On or before September 17, 1984, and on or before such date every year thereafter,~~ The board shall mail an application for renewal of license to all licensed mental health technicians ~~whose license expires during such year~~ at least 60 days prior to the expiration date of December 31. Every mental health technician who desires to renew a license shall file with the board, on or before December 31 of ~~such year~~ even-numbered years, a renewal application together with the prescribed renewal fee. Every licensee who is no longer engaged in the active practice of mental health technology may so state by affidavit and submit such affidavit with the renewal application. An

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inactive license may be requested along with payment of a fee as determined by rules and regulations of the board.

~~(b) Commencing with calendar year 1986,~~ The board shall require every licensee ~~in the~~ with an active practice license of mental health technology within the state to submit with the renewal application evidence of satisfactory completion of a program of continuing education required by the board. The board by duly adopted rules and regulations shall establish the requirements for such program of continuing education.

~~(c) Upon receipt of such application and fee during calendar year 1983, the board shall verify the accuracy of the application and grant a renewal license which shall be effective for the 1984 calendar year, and such renewal license shall render the holder thereof a practitioner of mental health technology for the period stated. Upon receipt of such application and fee during calendar year 1984 and each year thereafter and, commencing with renewal applications received during calendar year 1986 and each year thereafter, upon receipt of the evidence of satisfactory completion of the required program of continuing education and evidence of satisfactory completion of the required program of continuing education and upon being satisfied that the applicant meets the requirements set forth in K.S.A. 65-4203 and amendments thereto in effect at the time of initial licensure of the applicant, the board shall verify the accuracy of the application and grant a renewal license which shall be effective for the next two calendar years, and such renewal license shall render the holder thereof a practitioner of mental health technology for the period stated.~~

~~(d)~~ (b) Any licensee who fails to secure a renewal license within the time specified herein may secure a renewal reinstatement of such lapsed license by making verified application therefor on a form prescribed by the board together with the prescribed reinstatement fee and, ~~for licenses which lapsed during calendar year 1986 and thereafter, evidence of~~

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~~satisfactory completion of the required program of continuing education. Such application shall furnish~~ satisfactory evidence as required by the board that the applicant is presently competent and qualified to perform the responsibilities of a mental health technician, ~~with the board to be the sole judge of the adequacy of the evidence so presented~~ and of satisfying all the requirements for reinstatement.

(c) Each licensee shall notify the board in writing of a change in name or address within 30 days of the change. Failure to so notify the board shall not constitute a defense in an action relating to failure to renew a license, nor shall it constitute a defense in any other proceeding.

New Sec. 12. The board shall appoint a disciplinary counsel, with the duties set out in this act. The disciplinary counsel shall be an attorney admitted to practice law in Kansas. The disciplinary counsel shall have the power and the duty to investigate or cause to be investigated all matters involving professional incompetency, unprofessional conduct or any other matter which may result in disciplinary action against a licensee pursuant to the Kansas nurse practice act or the mental health technician's licensure act and amendments thereto. In the performance of these duties, the disciplinary counsel may apply to any court having power to issue subpoenas for an order to require by subpoena the attendance of any person or by subpoena duces tecum the production of any records for the purpose of the production of any information pertinent to an investigation. Subject to approval by the board the executive administrator shall employ clerical and other staff necessary to carry out the duties of the disciplinary counsel. The board may adopt rules and regulations necessary to allow the disciplinary counsel to properly perform the function of such position under this act. This section is made specifically supplemental to the Kansas nurse practice act.

Sec. 13. K.S.A. 65-1114, 65-1115, 65-1116, 65-1117, 65-1118,

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65-1118a, 65-1132, 65-1152, 65-1155, 65-1156, 65-1157, 65-1160, 65-4203 and 65-4205 are hereby repealed.

Sec. 14. This act shall take effect and be in force from and after its publication in the statute book.

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PROPOSED BILL NO. _____

By

AN ACT concerning administration of intravenous fluid therapy;
qualification of licensed practical nurses.

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

Section 1. (a) The administration of intravenous fluid therapy may be performed by licensed practical nurses who have been educated and successfully completed a competency evaluation of such procedures in a course of instruction approved by the state board of nursing. The board may adopt rules and regulations which limit and define the scope of intravenous fluid therapy which may be performed by licensed practical nurses under the indirect or direct supervision of a registered professional nurse.

(b) The course curriculum and approval fee shall be prescribed in rules and regulations of the board.

(c) An advisory committee of not less than two board members and four nonboard members shall be convened initially and then may convene on an annual basis to provide information for revision of rules and regulations. The membership of the committee shall be defined in rules and regulations of the board.

(d) Any licensed practical nurse who has performed intravenous fluid therapy prior to the effective date of this act may continue the practice as defined in rules and regulations of the board by demonstrating sufficient knowledge and competency in intravenous fluid therapy by means of an evaluation developed by the advisory committee and approved by the board.

(e) An individual who has attended an intravenous fluid therapy course in another jurisdiction which has standards equal to or greater than the corresponding standards established by the board may apply to the board for review of such course and upon

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approval of the course by the board may practice intravenous fluid therapy.

(f) Nothing in this act shall be construed as prohibiting administration of intravenous fluid therapy by registered professional nurses.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

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PROPOSED BILL NO. _____

By

AN ACT concerning licensure of nurses and mental health technicians; state board of nursing; investigations and proceedings; unlawful acts and crimes; amending K.S.A. 65-1120, 65-1122, 65-1134, 65-1162, 65-4209 and 65-4214 and repealing the existing sections.

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

Section 1. K.S.A. 65-1120 is hereby amended to read as follows: 65-1120. (a) Grounds for disciplinary actions. The board ~~shall have the power to~~ may publicly censure, deny, revoke, limit or suspend any license or, certificate of qualification or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse or, as an advanced registered nurse practitioner or as a registered nurse anesthetist that is issued by the board or applied for ~~in accordance with the provisions of~~ under this act ~~in the event that if~~ the applicant or licensee is found after hearing:

(1) To be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing;

(2) to have been guilty of a felony or misdemeanor if the board determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;

(3) to have committed an act of professional incompetency;

(4) ~~to be habitually intemperate in the use of alcohol or addicted to the use of habit-forming drugs~~ to be unable to practice with skill and safety due to physical or mental disabilities, including loss of motor skills or abuse of drugs or alcohol;

~~(5) to be mentally incompetent;~~

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(6) to be guilty of unprofessional conduct as defined by rules and regulations of the board;

(7) to have willfully or repeatedly violated ~~any-of~~ the provisions of the Kansas nurse practice act or any ~~rule--and regulation~~ rules and regulations adopted pursuant to that act, including K.S.A. 65-1114 and 65-1122 and amendments thereto; or

(8) (7) to have a license to practice nursing as a registered nurse or as a practical nurse publicly censured, denied, revoked, limited or suspended by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph (8) (7).

(b) Proceedings. Upon filing of a sworn complaint with the board charging a person with having been guilty of any of the unlawful practices specified in subsection (a), two or more members of the board shall investigate ~~such~~ the charges, or the board may designate and authorize an employee or employees of the board to conduct ~~such~~ an investigation. After investigation, the board may institute charges. ~~In--the--event--such~~ If an investigation, in the opinion of the board, ~~shall-reveal~~ reveals reasonable grounds for believing the applicant or licensee is guilty of the charges, the board shall fix a time and place for proceedings ~~thereon~~, which shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) Witnesses. No person shall be excused from testifying in any proceedings before the board under this act or in any civil

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proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against ~~such~~ the person for ~~any the~~ prosecution ~~for of~~ any crime under the laws of this state except the crime of perjury as defined in K.S.A. 21-3805 and amendments thereto.

(d) Costs. If final agency action of the board in a proceeding ~~pursuant-to~~ under this section is adverse to the applicant or licensee, the costs of the board's proceedings shall be charged to the applicant or licensee as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed by the board according to the statutes relating to procedure in the district court. All costs accrued ~~at--the--instance--of~~ by the board, when it is the successful party, and which the attorney general certifies cannot be collected from the applicant or licensee shall be paid ~~out--of~~ any-available-moneys-in from the board of nursing fee fund.

(e) Professional incompetency defined. As used in this section, "professional incompetency" means:

(1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;

(2) repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board; or

(3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

Sec. 2. K.S.A. 65-1122 is hereby amended to read as follows:
65-1122. It ~~shall-be-a-misdemeanor~~ is a violation of law for any person, firm, corporation or association to:

(a) Sell or fraudulently obtain or furnish any nursing diploma, license, record or certificate of qualification or aid

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or abet therein;

(b) practice professional nursing, practical nursing or practice as an advanced registered nurse practitioner, unless duly licensed or certified to do so;

(c) use in connection with such person's name any designation implying that such person is a licensed professional nurse, a licensed practical nurse or an advanced registered nurse practitioner unless duly licensed or certified so to practice under the provisions of ~~this~~ the Kansas nurse practice act, and such license or certificate is then in full force;

(d) practice professional nursing, practical nursing or as an advanced registered nurse practitioner during the time a license or certificate issued under the provisions of ~~this~~ the Kansas nurse practice act shall have expired or shall have been suspended or revoked;

(e) represent that a school for nursing is accredited for educating either professional nurses or practical nurses, unless such school has been duly accredited by the board and such accreditation is then in full force; ~~or~~

(f) violate any provisions of the Kansas nurse practice act or ~~any rule and regulation~~ rules and regulations adopted pursuant to that act; or

(g) represent that a provider of continuing nursing education is approved for educating either professional nurses or practical nurses, unless the provider of continuing nursing education has been approved by the board and the approval is in full force.

Any person who violates this section ~~shall be~~ is guilty of a class E A misdemeanor, except that, upon conviction of a second or subsequent violation of this section, such person ~~shall be~~ is guilty of a ~~class-B-misdemeanor~~ class E felony.

Sec. 3. K.S.A. 65-1134 is hereby amended to read as follows:
65-1134. ~~K.S.A. 65-1130 to 65-1134, inclusive, and~~ The acts contained in article 11 of chapter 65 of the Kansas Statutes

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Annotated and ~~any-acts-amendatory-thereof~~ amendments thereto or made specifically supplemental thereto shall be construed together and may be cited as the Kansas nurse practice act.

Sec. 4. K.S.A. 65-1162 is hereby amended to read as follows:

65-1162. (a) ~~On-and-after-January-17-1987,~~ Except as otherwise provided in K.S.A. 65-1151 to 65-1163, inclusive, and amendments thereto any licensed professional nurse or licensed practical nurse who engages in the administration of general or regional anesthesia without being authorized by the board to practice as a registered nurse anesthetist ~~by-the-board-shall-be~~ is guilty of a class A misdemeanor.

(b) ~~On-and-after-January-17-1987,~~ Any person, corporation, association or other entity, except as otherwise provided in K.S.A. 65-1151 to 65-1163, inclusive, and amendments thereto who engages in any of the following activities ~~shall-be~~ is guilty of a class A misdemeanor:

(1) Employing or offering to employ any person as a registered nurse anesthetist with knowledge that such person is not authorized by the board to practice as ~~such-by--the--board~~ a registered nurse anesthetist;

(2) fraudulently seeking, obtaining or furnishing documents indicating that a person is authorized by the board to practice as a registered nurse anesthetist when such person is not so authorized, or aiding and abetting such activities; ~~or~~

(3) using in connection with one's name the title registered nurse anesthetist, the abbreviation R.N.A., or any other designation tending to imply that such person is authorized by the board to practice as a registered nurse anesthetist when such person is not authorized by the board to practice as a registered nurse anesthetist; or

(4) violation of the Kansas nurse practice act or rules and regulations adopted pursuant thereto.

(c) Upon conviction of a second or subsequent violation of this section, the person is guilty of a class E felony.

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Sec. 5. K.S.A. 65-4209 is hereby amended to read as follows:

65-4209. (a) The board ~~shall have the power, after notice and an opportunity for hearing, to withhold,~~ may publicly censure, deny, revoke or suspend any license to practice as a mental health technician issued or applied for in accordance with the provisions of this act or otherwise to discipline a licensee upon proof that the licensee:

(1) Is guilty of fraud or deceit in procuring or attempting to procure such a license to practice mental health technology;

(2) ~~is habitually intemperate or is addicted to the use of habit-forming drugs~~ is unable to practice with reasonable skill and safety due to physical or mental disabilities, including loss of motor skills or abuse of drugs or alcohol;

~~(3) is mentally incompetent;~~

~~(4)~~ (3) is incompetent or grossly negligent in carrying out the functions of a mental health technician;

~~(5)~~ (4) has committed unprofessional conduct as defined by rules and regulations of the board; or

~~(6)~~ (5) has been convicted of a felony or ~~of any misdemeanor involving moral turpitude, in which event the record of the conviction shall be conclusive evidence of such conviction. The board may inquire into the circumstances surrounding the commission of any criminal conviction to determine if such conviction is of a felony or misdemeanor involving moral turpitude.~~ misdemeanor if the board determines, after investigation, that the person has not been sufficiently rehabilitated to warrant the public trust;

(6) to have willfully or repeatedly violated the provisions of the mental health technician's licensure act or rules and regulations adopted under that act and amendments thereto; or

(7) to have a license to practice mental health technology publicly censured, denied, revoked, limited or suspended by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have

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other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph (7).

(b) Upon filing a sworn complaint with the board charging a person with having been guilty of any of the unlawful practices specified in subsection (a), two or more members of the board shall investigate the charges, or the board may designate and authorize an employee or employees of the board to conduct an investigation. After investigation, the board may institute charges. If an investigation, in the opinion of the board, reveals reasonable grounds to believe the applicant or licensee is guilty of the charges, the board shall fix a time and place for proceedings, which shall be conducted in accordance with the Kansas administrative procedure act.

(c) No person shall be excused from testifying in any proceedings before the board under the mental health technician's licensure act or in any civil proceedings under such act before a court of competent jurisdiction on the ground that the testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state except the crime of perjury as defined in K.S.A. 21-3805 and amendments thereto.

(d) If final agency action of the board in a proceeding under this section is adverse to the applicant or licensee, the costs of the board's proceedings shall be charged to the applicant or licensee as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be

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taxed by the board according to the statutes relating to procedure in the district court. All costs accrued by the board, when it is the successful party, and which the attorney general certifies cannot be collected from the applicant or licensee shall be paid from the board of nursing fee fund.

(e) As used in this section, "professional incompetency" means:

(1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;

(2) repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board; or

(3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice mental health technology.

(f) All proceedings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

Sec. 6. K.S.A. 65-4214 is hereby amended to read as follows:
65-4214. (a) It ~~shall be a class A misdemeanor~~ is a violation of law for any person, including any corporation, association, partnership to:

(1) Fraudulently obtain, sell, transfer, or furnish any mental health technician diploma, license, renewal of license, or record, or aid or abet another therein;

(2) advertise, represent, or hold ~~himself~~ oneself out in any manner as a mental health technician or to practice as a mental health technician without having a license to so practice issued under ~~this~~ the mental health technician's licensure act, except as provided in K.S.A. 65-4212 and amendments thereto;

(3) use in connection with ~~his~~ one's name any designation intending to imply that he such person is a licensed mental health technician without having such license issued as herein

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provided;

(4) practice as a mental health technician during the time his such person's license shall-be is suspended or revoked; or

(5) otherwise violate any of the provisions of this the mental health technician's licensure act; or

~~(b)--In--any--prosecution--under--this--act--it--shall--be--necessary to--prove--only--a--single--violation--of--the--provisions--of--this--act--or a--single--holding--out,--without--proving--a--general--course--of conduct,--in--order--to--constitute--a--violation.~~

(6) represent that a provider of continuing education is approved for educating mental health technicians, unless the provider of continuing education has been approved by the board and the approval is in full force.

(b) Any person who violates this section is guilty of a class A misdemeanor, except that, upon conviction of a second or subsequent violation of this section, such person is guilty of a class E felony.

New Sec. 7. (a) In connection with any investigation by the board of nursing, the board or its duly authorized agents or employees shall at all reasonable times have access to, for the purpose of examination, and the right to copy any document, report, record or other physical evidence of any person being investigated, or any document, report, record or other evidence maintained by and in possession of any clinic, office of a practitioner of the healing arts, laboratory, pharmacy, medical care facility or other public or private agency if such document, report, record or evidence relates to competence, unprofessional conduct or the mental or physical ability of a licensee safely to practice.

(b) For the purpose of all investigations and proceedings conducted by the board:

(1) The board may issue subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents or any other physical evidence if such

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evidence relates to competence, unprofessional conduct or the mental or physical ability of a licensee safely to practice. Within five days after the service of the subpoena on any person requiring the production of any evidence in the person's possession or under the person's control, such person may first petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the physical evidence which is required to be produced. Any member of the board, or any agent designated by the board, may administer oaths or affirmations, examine witnesses and receive such evidence.

(2) Any person appearing before the board shall have the right to be represented by counsel.

(3) The district court, upon application by the board, the licensee, or the person subpoenaed, shall have jurisdiction to issue an order:

(A) Requiring such person to appear before the board or the board's duly authorized agents to produce evidence relating to the matter under investigation; or

(B) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence which is required to be produced and the board has refused to revoke, limit or modify pursuant to a request in subsection (b)(1).

(c) Patient records, including clinical records, medical reports, laboratory statements and reports, files, films, other reports or any statements relating to diagnostic findings on

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treatment of patients, information from which a patient or a patient's family might be identified, peer review or risk management records or information received and records kept by the board as a result of the investigation procedure outlined in this section are confidential and shall not be disclosed.

(d) Nothing in this section or any other provision of law making communications between a physician and the physician's patient privileged communication shall apply to investigations or proceedings conducted pursuant to this section. The board and its employees agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this section.

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

New Sec. 8. (a) Any complaint or report, record or other information relating to a complaint which is received, obtained or maintained by the board is confidential and shall not be disclosed by the board or its employees in a manner which identified or enables identification of the person who is the subject or source of such information except:

(1) In a disciplinary proceeding conducted by the board pursuant to law or in an appeal of the order of the board entered in such proceeding, or to any party to such proceeding or appeal or such party's attorney;

(2) to the proper licensing or disciplinary authority of another jurisdiction, if any disciplinary action authorized by K.S.A. 65-1120 and amendments thereto has at any time been taken against the licensee or the board has at any time denied a license certificate or authorization to the person; or

(3) to the person who is the subject of the information, but the board may required disclosure in such a manner as to prevent identification of any other person who is the subject or source of the information.

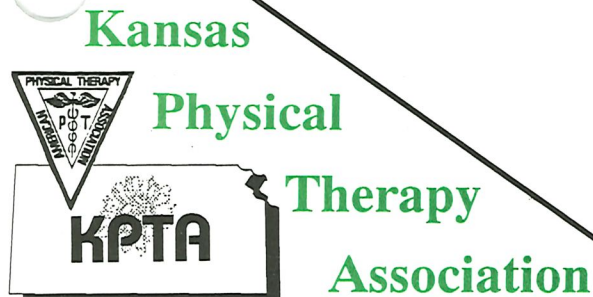
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(b) This section shall be part of and supplemental to the Kansas nurse practice act.

Sec. 9. K.S.A. 65-1120, 65-1122, 65-1134, 65-1162, 65-4209 and 65-4214 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

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January 19, 1993

Representative Flowers and Members of the House Public Health and Welfare Committee:

I am Candy Bahner, a physical therapist, the Kansas Physical Therapy Association (KPTA) Legislative Chair, and Director of the Physical Therapist Assistant Program at Washburn University.

I stand before you today on behalf of the KPTA and ask that you sponsor our proposed bill which will allow 21 days of Direct Access to physical therapy services to Kansas consumers.

This bill would allow Kansas consumers to receive physical therapy services for up to 21 days without a physician referral. Currently a Kansas consumer can only be evaluated by a physical therapist, but must have physician's orders prior to receiving physical therapy treatments.

There is evidence which shows that 21 days of Direct Access to physical therapy services allows another portal of entry into the traditional health care system, decreases overall medical expenses, and allows the consumer to choose how they spend their health care dollars.

For your background:

During the 1991 legislative session the Senate Public Health and Welfare Committee (SPHWC) introduced SB 64, a Direct Access

bill and it was held over in committee to the 1992 session. In 1992 the SPHWC amended SB 64 into SB 691 which was passed unanimously by the Senate. SB 691 allowed for 21 days of Direct Access to physical therapy services and contained "clean up" language regarding the physical therapy practice act.

During the original testimony on SB 64 Chip Whelan of the Kansas Medical Society (KMS) deferred the KMS position to the orthopedists who would be most directly involved with SB 64. During the summer of 1991 the 21 day agreement was reached with the Kansas Orthopedic Society.

The other language included in our proposed bill on page 3, sections 9, 10, 11, and 12 were submitted by the KMS last legislative session and the KPTA unanimously agreed to their inclusion.

The previously discussed items have been included in the KPTA's bill request which you have before you today.

We ask for your committee to sponsor this bill for introduction into your committee and I would be happy to answer any questions you might have.

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HOUSE BILL No. _____

AN ACT concerning physical therapy; relating to the providing of physical therapy treatment; amending K.S.A. 1991 Supp. 65-2901, 65-2912 and 65-2913 and repealing the existing sections.

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

Section 1. K.S.A. 1991 Supp. 65-2901 is hereby amended to read as follows: 65-2901. ~~(a)~~ As used in this act, the ~~term~~ following terms and phrases shall have the meanings respectively ascribed to them in this section:

(a) "Physical therapy" means a health specialty concerned with the evaluation, treatment or instruction of human beings to assess, prevent and alleviate physical disability and pain. This includes the administration and evaluation of tests and measurements of bodily functions and structures in aid of treatment; the planning, administration, evaluation and modifications of treatment and instruction, including the use of physical measures, activities and devices for prevention and therapeutic purposes; and the provision of consultative, educational and advisory services for the purpose of reducing the incidence and severity of physical disability and pain. The use of roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, and the practice of medicine and surgery are not authorized or included under the term "physical therapy" as used in this act.

(b) "Physical therapist" means a person who practices physical therapy ~~as defined in this act~~ and delegates selective forms of treatment to supportive personnel under the person's supervision ~~of such person~~. Any person who successfully meets the requirements of K.S.A. 65-2906 and amendments thereto shall be known and designated as a physical therapist and may designate or describe oneself as a physical therapist, physiotherapist, registered physical therapist, P.T., Ph. T. or R.T.T. Physical therapists may evaluate patients ~~without physician referral but may initiate treatment only after consultation with and approval by~~

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and initiate physical therapy treatment without a physician's order, but shall not continue such treatment for a period exceeding 21 consecutive calendar days from the date of initiating treatment unless an order to continue such treatment is obtained from a physician licensed to practice medicine and surgery, a licensed podiatrist or a licensed dentist in appropriately related cases.

(c) "Physical therapist assistant" means a person who works under the direction of a physical therapist, and who assists in the application of physical therapy, and whose activities require an understanding of physical therapy, but do not require professional or advanced training in the anatomical, biological and physical sciences involved in the practice of physical therapy. Any person who successfully meets the requirements of K.S.A. 65-2906 and amendments thereto shall be known and designated as a physical therapist assistant, and may designate or describe oneself as a physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst.

Sec. 2. K.S.A. 1991 Supp. 65-2912 is hereby amended to read as follows: 65-2912. (a) The board may refuse to grant a certificate of registration to any physical therapist or a certificate to any physical therapist assistant, or may suspend or revoke the registration of any registered physical therapist or certificate of any certified physical therapist assistant for any of the following grounds:

(1) Addiction to or distribution of intoxicating liquors or drugs for other than lawful purposes;

(2) conviction of a felony if the board determines, after investigation, that the physical therapist or physical therapist assistant has not been sufficiently rehabilitated to warrant the public trust;

(3) obtaining or attempting to obtain registration or certification by fraud or deception;

(4) finding by a court of competent jurisdiction that the physical therapist or physical therapist assistant is a disabled person and has not thereafter been restored to legal capacity;

(5) unprofessional conduct;

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(6) the treatment or attempt to treat ailments or other health conditions of human beings other than by physical therapy and as authorized by this act;

(7) failure to refer patients to other health care providers if symptoms are present for which physical therapy treatment is inadvisable or if symptoms indicate conditions for which treatment is outside the scope of knowledge of the registered physical therapist;

(8) ~~initiating treatment without prior consultation and approval by continuing physical therapy treatment for more than 21 consecutive calendar days from the date of initiating treatment unless an order to continue such treatment is obtained from a physician licensed to practice medicine and surgery, by a licensed podiatrist or by a licensed dentist;~~

(9) referring a patient to another physical therapist for continued treatment without an order from a physician licensed to practice medicine and surgery, a licensed podiatrist or a licensed dentist;

(10) directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually and personally rendered, other than through the legal functioning of lawful professional partnerships, corporations or associations;

(11) advertising or otherwise promoting oneself or a physical therapy practice in a manner which implies the practice of medicine and surgery or other services outside the scope of physical therapy; and

(12) knowingly submitting any misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement.

(b) All proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 3. K.S.A. 65-2913 is hereby amended to read as follows:

(a) Any person who, in any manner, represents oneself as a

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physical therapist, or who uses in connection with such person's name the words or letters physical therapist, physiotherapist, registered physical therapist, P.T., Ph. T. or R.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist, without a valid existing certificate of registration as a physical therapist issued to such person pursuant to under the provisions of this act, shall be guilty of a class C misdemeanor.

~~(b) Any person who successfully meets the requirements of subsection (c) of K.S.A. 65-2906 and amendments thereto shall be know as and designated a physical therapist assistant and may designate or describe oneself as a physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A., or P.T. Asst. Any person who, in any manner, represents oneself as a physical therapist assistant, or who uses in connection with such person's name the words or letters physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist assistant, without a valid existing certificate as a physical therapist assistant issued to such person pursuant to the provisions of this act, shall be guilty of a class C misdemeanor.~~

(c) Nothing in this act shall prohibit any person not holding oneself out as a physical therapist or physical therapist assistant from carrying out as an independent practitioner, without prescription or supervision, the therapy or practice for which such the person is qualified, and shall not prohibit such the person from using corrective therapy. Nothing in this act shall prohibit any person who assists the physical therapist or physical therapist assistant from being designated as a physical therapy aide.

Sec. 4. K.S.A. 1991 Supp. 65-2901, 65-2912 and 65-2913 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the ~~statute book~~ Kansas Register.

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STATE OF KANSAS



Joan Finney, Governor

KANSAS WATER OFFICE

Stephen A. Hurst
Director

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109 SW Ninth
Topeka, Kansas 66612-1249
913-296-3185
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January 13, 1993

The Honorable Joann Flower, Chairperson
House Public Health and Welfare Committee
Rm. 426-S, Statehouse
Topeka, KS 66612

Dear Representative Flower:

RE: Drinking Water Treatment Units

I enjoyed visiting with you on the telephone today about our draft legislation. As I mentioned, frequent reports in the media regarding the quality of drinking water supplies in many communities throughout the state and nation have encouraged many people to resort to home water treatment devices in an attempt to ensure the safety of their water supplies. In 1990, sales of the drinking water units industry had already reached over \$1.8 billion.

The Kansas Water Office and our board, the Kansas Water Authority, are concerned about the many reports of unscrupulous dealers and sellers exploiting this public fear about their health and welfare and selling costly drinking water units which either do not address the real problem or were not needed at all. The sale of such unnecessary or improper home water treatment units besides being a great burden on innocent customers may increase the risks to their health rather than diminish them.

Enclosed is a fact sheet and the draft bill we visited about. This bill draft is similar to the laws of many other states and has been endorsed by both the Kansas Water Authority and the Governor. The proposed bill is an attempt to address this problem by ensuring that the drinking water units sold in this state are actually tested by an independent certified laboratory regarding their claimed benefits and by taking steps to educate the public regarding the quality and safety of their drinking water supplies and as to when and how to choose the right kind of drinking water treatment units to meet their needs.

I am looking forward to introducing this bill to your committee next Tuesday, January 19, 1993, at 1:30 p.m.

If you have any questions or suggestions, please do not hesitate to call me. Thank you again for agreeing to have your committee consider this important issue.

Sincerely,

A handwritten signature of Stephen A. Hurst in dark ink, written over a horizontal line.

Stephen A. Hurst
Director

SAH:dk

Enclosures

cc: Thomas C. Stiles
Daljit Jawa

PHW
1-19-93
Attn #6
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H.B. _____

Drinking Water Treatment Units

January 1993

BACKGROUND

A pamphlet titled "Is Your Drinking Water Safe" published by the Cooperative Extension Service, Kansas State University, Manhattan, in October 1988, states that:

"Public water systems serve 80 percent of the state's population. About 60 percent comes from groundwater and 40 percent from surface water, mostly streams. Public water systems are regulated, tested and monitored by trained staff.

"The remaining 20 percent of Kansans--a half million people--are supplied by private water systems. Of the 126,000 private water supplies, more than 99 percent are groundwater wells. The homeowner or user is responsible for the safety of a private water supply. No regulations apply to private water supplies.

"A 1986 survey of farmstead wells found that 37 percent contained inorganic chemicals above the safe drinking water standard, 28 percent contained nitrates above the standard, six percent contained lead, five percent contained cadmium and one percent had mercury above the standard. Kansas ranks second nationally in the percent of wells above the nitrate standard.

"The farmstead well survey found that 10 percent contained man-made

organics, eight percent contained pesticides and two percent contained volatile organic chemicals (VOCs).

"No statewide statistical information is available on bacteria content. However, about 25 percent of the samples submitted to the Department of Health and Environment for testing contained excessive coliform bacteria."

This pamphlet highlights the following facts about household water quality in Kansas.

- Household water quality, especially from private wells, is an increasing concern.

- More than 40 percent of private wells do not meet the safe drinking water standard.

- Man-made chemicals, such as pesticides and volatile organics, are being found in increasing amounts in the state's water.

- In Kansas, 332 documented contamination sites jeopardize groundwater and surface water quality.

- Since 1986, 39 public supply wells have been shut down because of contamination."

The above information raises important questions about the protection of public health.

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Reports of water contamination have raised consumer awareness and concern about the safety of all sources both public and private. As a result, an increasing number of consumers are turning to drinking water treatment units in order to improve or safeguard their drinking water quality. Manufacturers and dealers of drinking water treatment units are responding to the perception of unsafe water and even encouraging it.

According to a report published by the U.S. General Accounting Service, the markets for these units has been growing since 1985 with \$1.8 billion spent by consumers in 1990. This study finds that "...as sales of these units have increased, so have reports of questionable sales practices and false claims of product effectiveness." The report contends that dishonest marketers use a variety of misleading sales practices and that ineffective treatment units pose a health risk to consumers if used to treat contaminated water.

As per some preliminary data collected by the Kansas Attorney General in 1990, on an average their office received anywhere from three to 10 inquiries per day concerning these types of promotions. They had issued subpoenas to approximately 25 companies and closed approximately 100-200 cases concerning this problem.

Purpose

The purpose of the H.B. ____ is to protect the public health of Kansas citizens by ensuring that (1) they are provided with accurate information about the quality and safety of their drinking water supplies; (2) they can make informed decisions regarding the best type of units for their particular needs and concerns; and (3) the claims made by the dealers and manufacturers about their units are verified by an independent third party testing agency or laboratory.

Summary of the Bill

This bill:

1. Makes it unlawful for a seller to sell a drinking water treatment unit unless each model has been tested by an independent third party (i.e., any testing agency that has been accredited by the American National Standard Institute (ANSI)¹.
2. Requires the seller to provide to the buyer, before completion of the sale (a) certification of product performance claims by an independent third party and (b) manufacturer's performance data sheet.
3. Requires the Cooperative Extension Service to develop and disseminate a consumer education program which shall include publication of a consumer handbook to educate the consumer about the necessity use and effectiveness of drinking water treatment units, the quality of public water supplies in different areas of the state and any other information to safeguard the public health.

Any violation of this provision or making false or deceptive claims for any drinking water unit is a violation of the Consumer Protection Act (K.S.A. 50-623 *et seq.*).

Additional Information

Further information on this subject may be obtained from: Director, Kansas Water Office, 109 SW 9th Street, Suite 300, Topeka, KS 66612-1249 (913/296-3185).

¹American National Institute (ANSI) is a private nonprofit membership organization that coordinates the U.S. Voluntary Consensus Standards Systems and approves American National Standards and represents U.S. international interests in international standardization.

By requiring the third party testing agencies to be so certified by ANSI, this bill ensures the independence of the testing labs and thus ensures the quality and safety of the drinking water treatment units.

Secondly, unlike many other states having legislation on drinking water units, it saves the state from the expense and burden of setting up a new layer of bureaucracy for testing of the drinking water units or certifying the private testing labs.

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HOUSE BILL NO. _____

BY: _____

AN ACT relating to drinking water treatment units; establishing certain requirements relating thereto; prohibiting certain acts and providing remedies for violations.

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

Section 1. This act shall be known and may be cited as the Kansas drinking water quality and treatment units act.

Sec. 2. For the purpose of this act, unless the context otherwise requires:

(a) "Consumer" means any person who purchases, leases or rents a drinking water treatment unit, not for resale or use in the ordinary course of a trade or business, but for providing drinking water for household or business use.

(b) "Contaminant" means any undesirable physical, chemical, radiological or microbiological substance or parameter in water for which a maximum contaminant level (mcl) has been identified by the U.S. environmental protection agency.

(c) "Drinking water treatment unit" means any unit designed for personal, family household or institutional use (such as schools and day care centers) for which a claim is made that it will improve the quality of water by changing or reducing one or more contaminants through mechanical, physical, chemical or biological processes, or combinations thereof. For the purposes of this act, each model of a drinking water treatment unit shall be deemed a distinct drinking water treatment unit.

(d) "Manufacturer's performance data sheet" means a booklet, document or other printed material containing, at a minimum, the information required by section 5.

(e) "Seller" means a person who is in the business of offering drinking water treatment units for sale, lease or rent to consumers and shall include sales representatives.

(f) "Surrogate" means a chemical compound with similar reaction characteristics as the target contaminant.

(g) "Completion of sale" means the completion of the act of selling, leasing or renting. Where the drinking water unit is ordered by telephone or mail, "completion of sale" means delivery.

(h) "Independent third party testing agency" is an organization or a program within an organization that has been accredited by the American national standards institute (ANSI) new york in accordance with the ANSI "policy and criteria for accreditation of certification programs" (September 1992).

Sec. 3. (a) It is unlawful for a seller to sell, lease, rent or offer for sale, lease or rent any drinking water treatment unit manufactured after January 1, 1994 unless:

(1) Each model/model series (family of models) has been tested and certified by an independent third party testing agency as defined in section 2 (h); and

(2) each model has met the performance and materials testing requirements specified in the applicable standards of an independent third party testing agency,

(b) It is unlawful for a seller to sell, lease or rent any water treatment unit unless the consumer, prior to the completion of the sale, lease or rental, has received product information package which includes: (1) certification of product performance claims by an independent third party testing agency; and (2) the manufacturer's performance data sheet.

Sec. 4. In the case of customized drinking water treatment units or systems integrated or assembled on site or designed for site-specific needs seller shall provide the consumer with the results of a water analysis of the consumer's water supply from a certified laboratory which documents the effectiveness of the drinking water treatment unit in reducing the specified contaminants.

Sec. 5. (a) The manufacturer's performance data sheet shall include, but not be limited to:

(1) The name, address and telephone number of the manufacturer (i.e., the person who makes, assembled, fabricates or constructs the drinking water units).

(2) The name, brand or trademark under which the drinking water treatment unit is sold and its model number.

(3) Performance and test data including, but not limited to:

(A) The list of contaminants certified to be reduced or changed by the drinking water treatment unit;

(B) the test influent concentration level of each contaminant or surrogate for that contaminant;

(C) the percentage reduction, change or effluent concentration of each contaminant or surrogate;

(D) the maximum permissible concentration of a contaminant in water as established in the U.S. environmental protection agency primary drinking water regulations;

(E) the approximate capacity in gallons;

(F) the period of time during which the unit is effective in reducing or changing the contaminants based upon the contaminant or surrogate influent concentrations used for the performance tests; and

(G) the flow rate, pressure and operational temperature of water during the performance test.

(b) The following information must be contained on the performance data sheet or may be referenced to the owner's manual or to other material given to the buyer:

(1) Installation instructions; and

(2) the recommended operational procedures and requirements necessary for the proper operation of the drinking water treatment unit including, but not limited to, electrical requirements; maximum and minimum pressure; flow rate; temperature limitations; maintenance requirements; and, where applicable, replacement frequencies.

Sec. 6. The cooperative extension service, Kansas state university, shall use its existing resources to develop and disseminate a consumer education program which shall include publication of a consumer information handbook which shall be updated periodically. The handbook shall educate the consumer of the necessity, use and effectiveness of drinking water treatment units; the quality of public water supplies in different areas of the state; the rights and responsibilities of the consumer under the consumer protection act; and any other pertinent information to safeguard the consumer interest in this matter. The consumer handbook shall be

made available to the public and public water suppliers through the existing extension service delivery system.

Sec. 7. It shall be a deceptive act or practice under K.S.A. 50-626 and violation of the consumer protection act (K.S.A. 50-623 *et seq.* and amendments thereto) for a seller to:

(a) Sell, lease, rent or offer for sale, lease or rent any drinking water treatment unit in this state to a consumer for which false or deceptive claims or representations of removing or changing contaminants are made;

(b) advertise, make or imply any false or misleading allegations regarding the consumer's existing water supplies;

(c) make any false or misleading representation or claim that the seller's drinking water treatment unit has been approved or endorsed by any agency of the state or the federal government; or

(d) commit any unlawful act described in section 3.

Sec. 8. This act shall take effect and be in force from and after January 1, 1994, and its publication in the statute book.