

Approved: 2-1-93
Date sh ✓

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chairperson Joann Flower at 1:30 p.m. on January 26,, 1993 in Room 423-S of the Capitol.

All members were present except: Rep. O'Connor, excused

Committee staff present: Emalene Correll, Legislative Research Department

Sue Hill, Committee Secretary

Conferees appearing before the committee:

Pat Johnson, Executive Administrator of State Board of Nursing
Diane Glynn, Practice Specialist /State Board of Nursing (Answered questions only)
Canda Byrne, Kansas Nurses Association

Others attending: See attached list

Chairperson Flower called the meeting to order, drawing attention to minutes that were available for consideration. After members had read the minutes, Chair entertained a motion. Rep. Freeborn moved the minutes for January 25, 1993 be approved as presented, seconded by Rep. Morrison. Motion carried.

Chair drew attention to (Attachment No.1), Committee Rules. It was noted the House Committees are making an effort to have uniformity in Committee Rules this Session. The primary difference in the rules this year is, rather than amend motions, a substitute motion will be made instead. Chair also stated, the House Rules used would be Mason Rules. There are copies of Mason's Rules in the House Clerk's office.

Chair drew attention to the agenda and requested staff to begin bill briefings.

Emalene Correll gave a comprehensive explanation of HB2072, noting numerous policy issues, policy changes, technical changes, amendatory language, and she gave explanation of terminology used while drafting bill language. The policy amending language related to intravenous fluid therapy should be placed in the IV Therapy bill (HB2071). She noted further it is important to clarify language in reference to educational requirements i.e., if the board plans to have two different educational requirements. Fee schedule changes were detailed; noted, currently only the Board of Healing Arts and the Supreme Court have authority to appoint a disciplinary counsel; numerous other policy changes and policy issues were pointed out to Committee; noted, a fiscal note will be available soon; noted, statutory language used, i.e., (may) means permissive, (shall) means mandatory. Ms. Correll then answered numerous questions.

Pat Johnson, Executive Administrator of Kansas State Board of Nursing offered hand/out see (Attachment No.2), and stated HB2072 will change the length of temporary permits; set maximum fees charged by the Board; clarify or eliminate sections regarding advanced registered nurse practitioner, registered nurse anesthetist or licensed mental health technician statutes. She detailed the bill section, by section and gave rationale for proposed changes in the extension of temporary permits; detailed the change of licensure examination process to computer adapted testing beginning in the Spring of 1994; expressed concern about a growing number of nurses practicing without a current license because improper addresses hamper the mail delivery of required forms; gave rationale regarding request for increased funding to obtain disciplinary counsel for the Board rather than to continue the use of counsel from the Attorney General's litigation division. She urged support of HB2072. Ms. Johnson answered numerous questions. Ms. Diane Glynn, Practice Specialist /Board of Nursing also answered questions.

Canda Byrne representing the Kansas Nurses Association drew attention to hand/out (Attachment No.3). The

Kansas Nurses Association has concerns with three parts of HB2072. They cannot support an increase of the licensure fee cap from \$40 to \$60 per year; nor the reinstatement fee from \$50 to \$70 per year. They do however recommend consideration be given that Licensed Mental Health Technicians (LMHT's) fee cap for biennial renewal be raised from \$30 to \$40 to equal that of LPN/RN's. She expressed concern that the deletion of language on page 5, lines 7-10, gives an unclear direction for rules/regulations governing continuing education (CE) for relicensure. The Kansas Nurses Association feels the new language added in Sec. 7, lines 3-8 is unnecessary. Ms. Byrne answered questions from Committee members.

Chairperson Flower thanked the conferees for their presentations.

Chair noted the Committee would have access to the fiscal note on HB2072 that will be forthcoming.

Chair announced there would be a request made for an Attorney General's opinion on the case load of the Board of Nursing.

Meeting adjourned at 2:47 p.m.

Next meeting scheduled for January 27, 1993.

VISITOR REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

DATE Jan. 26th

NAME	ORGANIZATION	ADDRESS
Maei Olsen	Ks St. Bd. of Nsg	Topeka
Harry Holloway	Ks St Bd of Nursing	Topeka
Pat Johnson	Ks St Bd of Nsg	Topeka
Danielle Hae	Wichita Hosp. Assoc.	Wichita
Conda Byrne	KSNA	Topeka
Carroll Zapp Bzl	KSNA	"
Terri Roberts	KSNA	Topeka
Dennis Kane	Intern	Baxter Springs
David Hanzlick	Ks Dental Ass'n	Topeka
Mah Eubel	KU	Lawrence
Erika Kuf	KU	Lawrence
Don Richman	KSBC	Topeka
Heather Gray		
Christen Head	Intern	Lawrence
Christen Head	Intern	Lawrence
Mark S. Braun	A.G.'s office	Topeka
Amy Abbruhl	Rep. intern for Rep. Minor	Lawrence
Karen Catalano	Intern for Rep. Bishop	Lawrence
Elsie Frisbie	Division of Budget	Topeka

COMMITTEE RULES

1. A substitute motion is in order, but no additional substitute motion shall be in order until the prior substitute motion is disposed.
2. Amendments to motions are not in order.
3. A motion requires a second to be in order.
4. A motion to take from the table shall be in order only when such item is on the agenda or is taken up by the chair. The motion requires a simple majority and is non-debatable.
5. No conferee shall be interrupted during presentation of their testimony, except with the permission of the chair.
6. Questioning of a conferee shall be limited to the subject matter of the agenda for the day.
7. Granting excused absences is reserved to the chair.
8. A request from any member that their own vote be recorded shall be granted.
9. All conferees are requested to submit enough copies of written testimony for all committee members and staff.
10. Smoking is prohibited in committee rooms.
11. Adjournment is reserved to the chair.
12. In any case where committee rules do not apply, House Rules shall govern. All powers, duties and responsibilities not addressed above are reserved to the chair.

PH/ED
1-26-93
Attn #1.

Kansas State Board of Nursing

Landon State Office Building
900 S.W. Jackson, Rm. 551
Topeka, Kansas 66612-1230
913-296-4929



Patsy L. Johnson, R.N., M.N.
Executive Administrator
913-296-3068

TO: The Honorable Representative Joann Flower, Chairperson
and Members of the Public Health & Welfare Committee

FROM: Patsy L. Johnson, R.N., M.N.
Executive Administrator
Board of Nursing

DATE: January 25, 1993

RE: HB 2072

HB 2072 has been prepared to change the length of temporary permits and to set maximum fees that may be charged by the Board of Nursing. Other changes in the bill clarify or eliminate sections in advanced registered nurse practitioner, registered nurse anesthetist or licensed mental health technician statutes.

In Section 1, (Page 1, lines 36-42) K.S.A. 65-1114 was expanded. New language was added referring to unlawful practice or using the title of anyone other than someone authorized as a registered nurse anesthetist. All categories of nurses are included in this statute now.

In Sections 2 and 3, (Page 3, lines 7-9 and page 4, lines 20-22) there are two changes affecting registered professional and licensed practical nurses. The Board is requesting extension of the temporary permit from 60 to 90 days. A second temporary permit for 30 days would allow a total of 120 days. The temporary permit is issued most often for the nurse endorsing into Kansas. With the temporary permit, the nurse can go to work while awaiting verification of licensure from where the individual took the licensure exam. They present the Board evidence of current licensure in the other state with the endorsement application.

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Janette Pucci, R.N., M.S.N.
Education Specialist
296-3782

Diane Glynn, R.N., J.D.
Practice Specialist
296-3783

Patricia McKillip, R.N., M.N.
Education Specialist
296-3782

Verification from other states is now taking three to four months. When the temporary permit expires, the nurse cannot work. Many telephone calls are often made to get information. Getting verification from the other state is dependent up their workload and is beyond our control. By expanding the length of the temporary permit, this would allow time for most of the verifications to be returned to the Board office. The change would be positive for the licensee and also the Board staff.

The second change in sections 2 and 3 (Page 2, lines 36-41 and page 4, lines 6-11) is stimulated by a change in the licensure examination process. In the spring of 1994, computer adapted testing will begin for professional and practical applicants. Rather than the paper and pencil exam offered twice per year, all applicants will take the examination on a computer. It may be taken any time as scheduling permits. It is conceivable that the examination could be taken eight times in one year. Since the examination is to establish minimum competency, the Board felt that after failing the exam four times, the individual should get additional education or assistance. The problem could be lack of knowledge or just test anxiety. Limiting the number of times an individual could retake the examination could be positive for the applicant. Rather than just repeatedly taking the examination and failing, the applicant could get needed help and not waste time and money. The main issue is that if an applicant is not able to pass an examination after several attempts it is likely to be a lack of knowledge. The limitation protects the consumer from incompetent practice.

A Although the licensure examination will not be given by computer to the mental health technicians, the same requirement is added in Section 10, (Page 10, lines 3-7) for this category of licensee. The Board is considering offering the examination an additional time (three per year) for the mental health technician.

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K.S.A. 65-1117 in Section 4 is primarily an update. Inactive license is delineated in more detail (Page 4, line 43 continued page 5, lines 1-2). Reinstatement is currently referred as an untimely renewal and is not clear in subsection (b), so that has been modified. New subsection (c) specifies that licensees have to notify the Board of changes in name or address. Change of address continues to be a big problem. Service of notice during legal processes is covered because the Kansas Administrative Procedures Act requires service at the last known address. The bigger problem is sending out renewal applications and getting them to the right address. There have been a growing number of nurses practicing without a license claiming that the application did not get there. While it is the licensees' own responsibility, the addition would clearly state to nurses in black and white that the address must be updated. This provision has been added for the licensed mental health technicians in K.S.A. 65-4205, Section 11, (Page 11, line 27-31).

Board fees are listed in Section 5 (starting Page 5, line 35). The maximum amounts the Board may charge for renewal and reinstatement have been raised by \$20 each (lines 37, 38). The Appropriations Committee has carefully reviewed the fee fund balance the last two years. With the revenues remaining stable and a gradual increase in expenditures, the fee fund balance has been decreasing. The Board has also requested two new positions for FY 1994 which will increase expenditures if approved. It is imperative that increases in staff occur over the next few years due to the increasing workload and need for increased efficiency. Dependent upon the minimum level allowed for the fee fund balance, fees should be raised in the next couple of years. Attachments A and B show comparisons of revenues and expenditures over the years and the fee fund balances.

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Based on the recent review of statutes, rules and regulations for the Rule and Regulation Committee, a new fee is requested for verification of licenses to other states. The staff spends a good deal of time in checking applications for the verifications so there needs to be a fee. There are 1,500 verifications per year at \$25 per person or \$37,500.

In Section 6 (Page 6, line 26), the biennial renewal fee of accreditation of schools of nursing is changed to an annual fee. Budgeting for both the schools and the Board would be easier if an annual fee is paid rather than biennial. Currently \$300 is being charged every two years. The other change is to add a fee for approval of courses of intravenous fluid therapy. HB 2071 is being introduced to require licensed practical nurses to complete an intravenous fluid therapy course prior to performing more advanced intravenous procedures. If the intravenous fluid therapy course becomes mandatory, then the Board must approve the courses and would incur additional expenses. ???
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ok to move

Section 7 is additional clean up of the K.S.A. 65-1132 for advanced registered nurse practitioners (A.R.N.P.). Although researched and supported by the Attorney General's office that A.R.N.P.'s are required to have continuing education for certificate renewal, some licensees have been confused in reading the act. New language has been added to spell this out very specifically (Page 7, lines 2-8). In subsection (b), reinstatement language has been clarified as it was with registered nurse language in section 4. Subsection (c) (lines 24-40) was deleted since it was used as a grandfather clause when the statute was implemented for A.R.N.P.'s.

In Section 8, K.S.A. 65-1152 speaks to accreditation of schools of nurse anesthesia, subsection (a) (2) (Page 8, lines 4-6). There is

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no statute as to the accreditation process. New subsection (b) was added to cover the issue (Page 8, lines 12-14).

Similar to Section 7, the changes in Section 9 update the registered nurse anesthetist language in K.S.A. 65-1155. Language is deleted that covers the process when registered nurse anesthetists were first authorized (Page 8, line 39-43 and page 9, lines 1-4). This is not needed now. The time requirement for the Board office to send out authorization renewal notice has been changed from 90 to 60 days. It will be consistent with the registered nurse notice which is 60 days (Page 9, line 6). Subsection (b) updates the reinstatement language addressed in other sections of this bill.

In K.S.A. 65-4205, Section 10, outdated language referring to the initiation of the licensed mental health technician (L.M.H.T.) has been removed (Page 10, lines 14-20). Subsection (a) has been rewritten to update the renewal process for L.M.H.T.'s. The inactive license provision has been added (Page 10, lines 26-31). There has also been clarification of reinstatement in subsection (b) (Page 11, lines 27-31).

New Section 12 sets out the requirements and duties for a disciplinary counsel that the Board might hire. The Board has requested funding to obtain its own disciplinary counsel rather than to continue to use counsel from the Attorney General's litigation division. There are several reasons for wanting this change.

Over the past four years, there have been four different Attorney General Assistants assigned to the Board as disciplinary counsel. While each attorney has worked very hard to master the Board's caseload, there are basic considerations that slow the process with each change. The work requires some expertise due to the medical

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knowledge required. It takes a long time to develop that. It seems that the attorney assigned to the agency just becomes comfortable with the Board's work and the assignment is changed. The Board having its own staff attorney would hopefully decrease this problem.

Other rationale for getting an attorney is the current workload of the disciplinary division. The Assistant Attorney General not only represents the Board of Nursing but other clients as well. (Before coming to the Board of Nursing as the practice specialist, Diane Glynn, R.N., J.D., was on staff in the Attorney General's litigation division. She was assigned to three main agencies, the Board of Nursing, the Board of Emergency Medical Services, and the Board of Behavioral Science. She devoted 75% of her time to the Board of Nursing (35,000 licensees), 15% to the Board of Emergency Medical Services (5,000 licensees), and 10% to the Board of Behavioral Sciences (2,000 licensees). This allowed for service to all but in reality did not complete any one caseload and created a backlog for each agency. This still exists today. Although not specifically hired as an attorney for the Board, Ms. Glynn is currently writing the stipulation agreements following disciplinary proceedings. She is doing this to keep up with the workload. As compared to the Board of Healing Arts which has its own disciplinary attorneys (two), the Board of Nursing has a similar caseload. Attachment C. It is felt that the agency could well use a full time attorney. We cannot effectively protect the public without processing these cases as expeditiously as possible.

In summary, many changes have been proposed in this bill. Many changes are from the review that was done for the Legislative Rule and Regulation Committee. Limiting the number of times the licensure examination can be taken is a result of a change in testing on a national level. New language has been added in several different statutes to clarify what is in practice and has

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been interpreted to be legal. The Board has studied the budget closely as to the fee fund balance. The agency's future monetary needs are being anticipated.

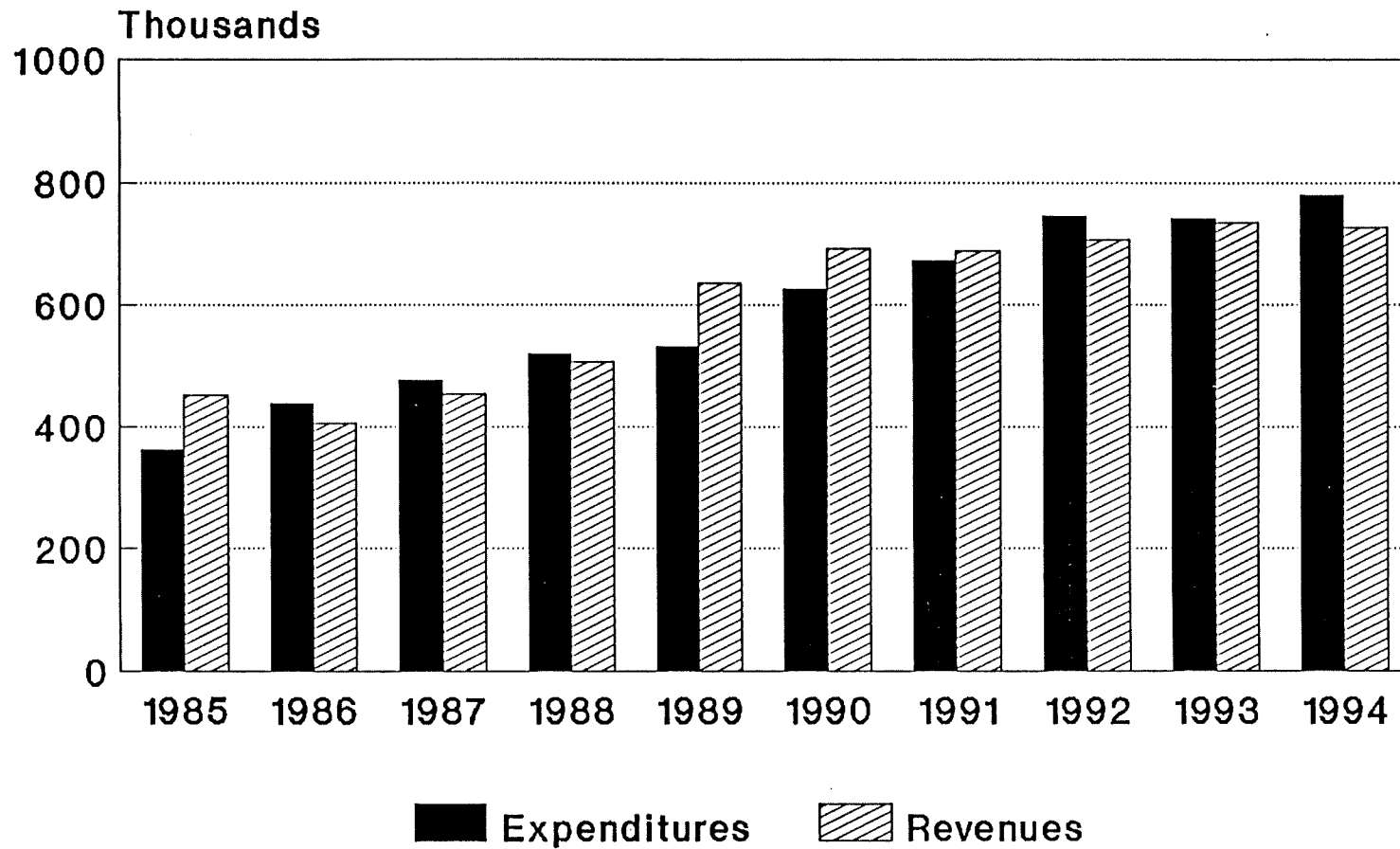
The Board hopes that you will approve HB 2072.

Thank you. I will be glad to answer questions.

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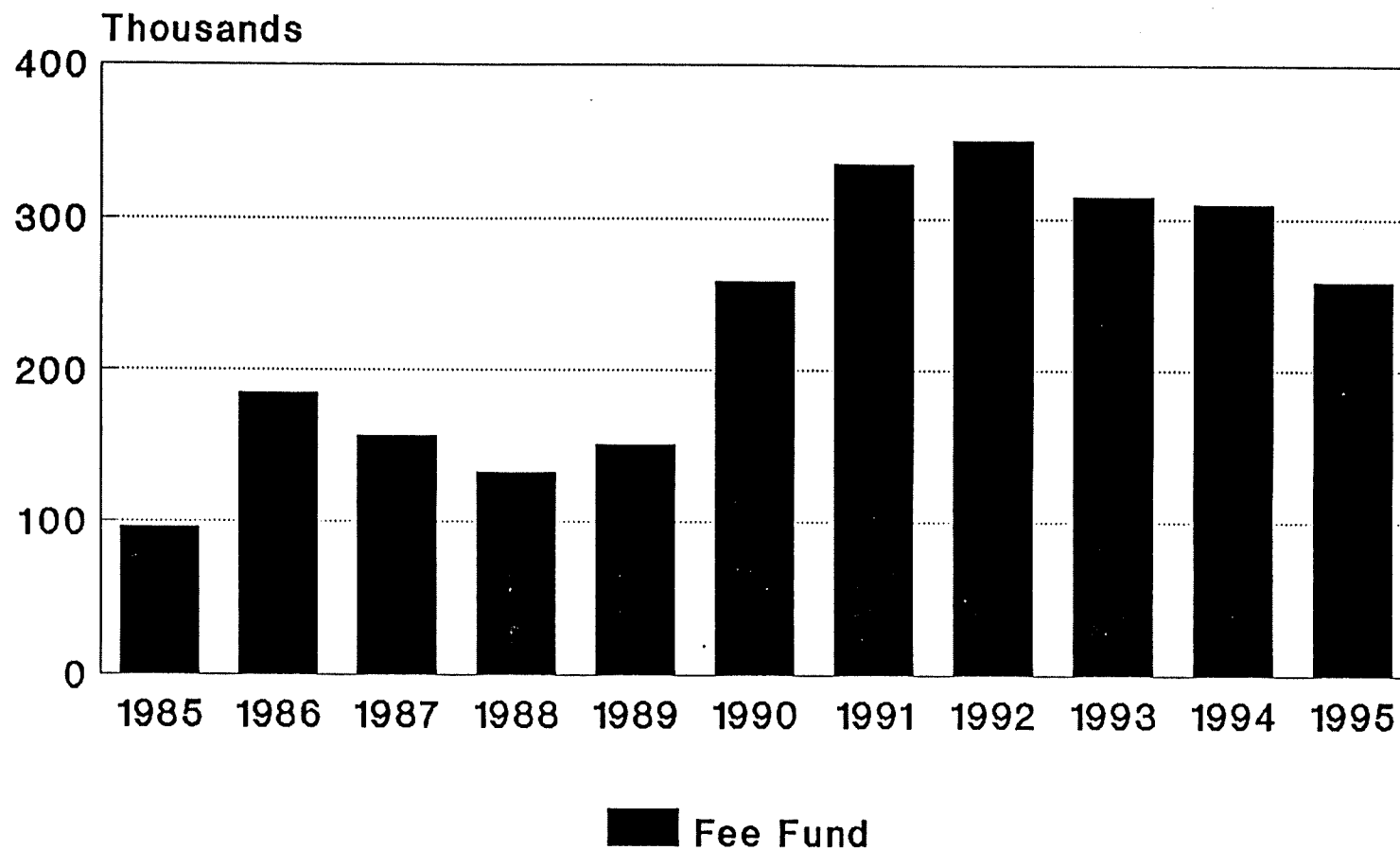
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Board of Nursing Expenditures/Revenues



8/14/95
1-26-95
Action #2
Jg 7/10

Board of Nursing Fee Fund Balance



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 Action #2
 Og 10/2/10

COMPARISON OF CASES FROM BOARD OF NURSING AND BOARD OF HEALING ARTS

	<u>FY 89</u>		<u>FY 90</u>		<u>FY 91</u>		<u>FY 92</u>	
	HA	Nsg	HA	Nsg	HA	Nsg	HA	Nsg
Cases	302	147	244	302	313	426		525
Investigations	537	?	541	1562	956	1610		1652
<u>ACTIONS</u>								
Denial for Cause	5	1	3	2	17	6		1
Emergency Proceeding	15	0	3	0	1	1		3
Stipulation	30	3+	11	31	18	53		18
Fine or Censure	18	NA	11	NA	6	NA		2
Informal Reprimand	0	NA	0	NA	5	NA		NA
Revocation/Suspension/ Limitation	8	15	3	26	8	16		17
Affidavit	10	NA	8	NA	0	NA		NA
Litigation	0	0	0	1	6	0		1
Total Actions	92	19+	44	60	66	77		42

KSNA

the voice of Nursing in Kansas

For Further Information Contact:
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HB 2072 Board of Nursing; Licensure, Qualification and Authorization

Chairperson Flower and members of the House Public Health and Welfare Committee, my name is Canda Byrne MSN, ARNP, CNS. I am a Clinical Nurse Specialist (CNS) and hold certification as an Advanced Registered Nurse Practitioner (ARNP). I am also a member of the Kansas State Nurses Association and the Advanced Practice Conference Group. I am here today representing KSNA. There are three parts of HB 2072 which we would like speak to.

First, we cannot at this time support an increase of the licensure fee cap from \$40.00 per year to \$60.00 and reinstatement fee from \$50.00 to \$70.00 per year. Currently the KSNB fee fund balance is \$332,577. The FY 91 fee fund balance carried over was \$350,718 and was \$313,851 for FY 92. In FY '92 this was 42% of the fee agency budget. We would, however, recommend that consideration be given that the LMHT's fee cap for biennial renewal be raised from \$30 to \$40 to be equal to that of LPN/RN's. This change if implemented, would generate \$7500 to \$10,000 revenue biennially.

On page 5 line 7-10 the following language is being deleted:

"In establishing such requirements the board shall consider any existing programs of continuing education currently being offered to such licensees by medical care facilities."

This language appeared in the statute during the implementation of mandatory CE back in the 1970's. While it is necessary to update the statute, it is equally important that the statute give clear direction to the agency for writing rules and regulations governing CE for relicensure.

Kansas State Nurses' Association Constituent of The American Nurses Association

700 S.W. Jackson, Suite 601 • Topeka, Kansas 66603-3731 • (913) 233-8638 • FAX (913) 233-5222
Michele Hinds, M.N., R.N.—President • Terri Roberts, J.D., R.N.—Executive Director

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Attmt #3

In Section 7, line 3-8, the new language to be added reads:

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.

✱ It is our contention that ARNP's who hold a voluntary certification do so because of their professionalism and dedication to their practice area. They are therefore able to assess their educational needs and acquire the education they need to fulfill these needs. This new statutory language is unnecessary. Our position is that the CE required for ARNP's should be self-determined. Thirty hours of continuing education are already required to maintain our licensure status. We are confident that the ARNP's are obtaining CE relevant to their practice area as part of the 30 hours. Disciplining ARNP's for incompetence has not been an issue for the Board of Nursing.

We also believe that this is consistent with trends in CE. Up until last year the American College of Nurse Midwives which tests and certifies nurse midwives had a past practice of mandating content for recertification. However, because of specialization this mandate was dropped.

I appreciate the opportunity to express our concerns on HB2072. Thank you.

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CE continuing education

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