

Approved: February 8, 1993  
Date dhv

## 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 February 3,, 1993 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department  
William Wolff, Legislative Research Department Norman Furse, Revisor of Statutes  
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Rep. Henry Helgerson  
Joe Furjanic, Executive Director, Ks. Chiropractic Association  
Mr. Rocky Vocek, Administrative Office, Ks. Barber Board  
Rep. Tom Bishop  
Rep. Alex Scott  
Rep. Melvin Neufeld  
Steve Paige, Director of Bureau of Environmental Health Services,  
Department of Health/Envoronment

Others atteending: See attached list.

Chairperson Flower called meeting to order inviting those present with bill requests to begin.

Rep. Helgerson offered hand outs (Attachment No.1), dealing with a Health Care Fund created by an additional tax on cigarettes and tobacco products. The revenue generated would be used for purposes of health care services; strategic planning; indigent health care; program for health education and public information regarding tobacco and other health issues, (see page 5 of Attachment No.1).

Second bill request from Rep. Helgerson (Attachment No.2) is regarding restriction to smoking in the Capitol, and eventually banning smoking in the Capitol. He noted he requests this legislation in behalf of himself, and the Tobacco Free Coalition. He offered to return to answer questions if and when the bill is introduced and is scheduled for hearings.

Rep. Bishop moved to introduce both bills requested by Rep. Helgerson, seconded by Rep. Samuelson.  
Motion carried.

Joe Furjanic, Ks. Chiropractic Association offered hand out (Attachment No.3), and gave a detailed explanation of proposed legislation regarding spinal manipulation and spinal mobilization. This legislation was introduced a few years ago, was ultimately drafted onto another bill, but not passed. The language defines spinal manipulation and spinal mobilization. He explained only licensees may perform spinal manipulation, per terms of the bill proposed. Spinal mobilization may be performed by licensees or physical therapists. Language in the bill will limit spinal manipulation to licensees, so it is the belief of the Kansas Chiropractic Association that there needs to be some clarification in language that would address other groups of professionals, i.e., coaches, trainers, barbers, masseuse. Mr. Furjanic then answered questions.

Rep. O'Connor moved to introduce the proposed legislation on spinal manipulation, seconded by Rep. Wells.  
Motion carried.

Mr. Rocky Vacek, Kansas Barber Board, offered (Attachment No.4) and noted with the passage of this proposed legislation the profession of barbering would be enhanced. The bill requests barbering instructors to be required to have continuing education. Other states have implemented continuing education of instructors in their regulations. This legislation is being requested because reciprocity is so important among the barbers in the state. page 1, (CEC) means Continued Education Credit; the date of 12/31/1992 should read 12/31/1993; on page 2, line one, the date should read 1/1/1994; page 4, line 7 the date should read 1/31/1994.

With the implementation of this legislation the Board foresees no additional costs to implement the program. He answered questions, i.e., bordering states, Missouri and Iowa do have this regulation currently in effect; the Ft. Leavenworth disciplinary barracks barber training program requires an additional 3 hour college training course to enhance their communication skills and offers classes in psychology as well. This school is highly regarded, and the Board views it as a good program to follow. There are three companies in Kansas that supply criteria for educational courses. He noted, thought had been given to utilizing Jr. Colleges in the Western part of the state for educational purposes; the Board of Cosmetology also has continuing education programs. (There was some dispute on this final topic).

Rep. Bishop moved to introduce the legislation proposed by the Ks. Barber Board, seconded by Rep. Scott. Motion carried.

Rep. Bishop stated, he had requested the Revisor, Mr. Furse to pull a bill that was worked extensively last year that was passed by both the Senate and House, then vetoed by the Governor, i.e., SB343. This bill relates to some reforms of the Kansas Dental Practice Act, i.e., disciplinary action by the Ks. Dental Board; defines unprofessional conduct; relates to the delegation of certain acts by the dental hygienist; dental hygiene as related to the dental hygienist. (Attachment No.5). Rep. Bishop noted a great deal of work had been put into this legislation last year, reforms are needed in this industry.

Rep. Bishop moved to introduce proposed legislation regarding Dental Practice Reform, seconded by Rep. Rutledge. Vote taken, chair in doubt. Show of hands indicated motion carried.

Rep. Scott requested the introduction of legislation concerning Public Assistance, that would require the Department of SRS to pay client's rent directly to landlords. (Attachment No.6) There was discussion in regard to perhaps there are Federal regulations prohibiting this type of action.

Rep. Wagle moved to introduce legislation proposed by Rep. Scott, seconded by Rep. Neufeld. Motion carried.

Chairperson directed attention to the Agenda and requested a briefing on HB 2108.

Ms. Correll gave a comprehensive explanation of HB2108, noting it was enacted in 1923. She detailed the regulations and stipulations required in the contents of mattresses, or bedding products; the regulations on tag to be displayed on each article of bedding. Numerous questions were asked.

#### HEARINGS BEGAN ON HB 2108.

Mr. Steve Paige, Department of Health/Environment offered hand out (Attachment No.7) He noted passage of HB2108 would remove requirements for sterilization and disinfection of bedding products intended to be resold; remove the requirement for bedding articles to carry the official tag identifying manufacturer and materials used. The Department of Health/Environment has no objection to passage of HB2108. He answered numerous questions, i.e., the manufacturers of bedding material in the state of Kansas are not licensed or inspected; persons suffering from allergies would perhaps need to be aware of what products are being used in the manufacturing of bedding materials.

Rep. Neufeld, noted during his research regarding HB2108, he found no article of bedding that has met the requirements of the Kansas bedding law. He noted K.S.A. 65-800 and 65-809 need to be amended into HB2108. (These statutes were erroneously omitted, he stated). Rep. Neufeld gave rationale for requesting this legislation, i.e., it was initially placed on the books years ago when mattress were being made from undesirable materials and restrictions to curtail using these materials were passed nearly nation-wide. This matter has been brought before the Committee before.

Note: Discussion was held as to the end result of deliberation on this type of legislation in previous years.

Rep. Wagle moved to report HB 2108 favorably out of Committee.

It was noted there are proposed amendments.

Rep. Wagle withdrew her motion.

Rep. Neufeld noted when he and others were instructed to go through statute books for sentencing guidelines clean-up, this particular penalty in HB2108, was overlooked, therefore, perhaps the best choice is to repeal .

Rep. Neufeld moved to amend HB2108 by repealing K.S.A. 65-808, 6 months in a county jail sentencing; and to repeal 65-809, 6 months in jail and or \$500 fine for non compliance. Motion seconded by Rep. Wells. Motion carried.

Rep. Wagle moved to pass HB2108 favorably as amended, seconded by Rep. Morrison. Motion carried.

It was noted a bill passed out of Committee with amendments cannot be placed on the consent calendar, only if it is passed with no amendments to the language.

Rep. Swall requested an explanation of his NO vote, i.e., he cannot see any useful purpose is being served by the passage of this legislation.

Chair adjourned the meeting.

The next scheduled meeting is tomorrow, February 4, 1993.

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

DATE \_\_\_\_\_

[illegible]

## HOUSE BILL NO. \_\_\_\_\_

AN ACT relating to the taxation of cigarettes and other tobacco products for the purposes of providing funds for programs for the prevention of tobacco-related diseases and to pay certain costs of medical care and health services attributable thereto; providing for the levy of taxes and use and disposition of the proceeds thereof; providing for the administration of the provisions of the act; declaring certain acts to be unlawful and prescribing penalties for the violation thereof.

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

Section 1. In recognition of the fact that the use of tobacco is one of the most preventable causes of death and disease in this state; that the cost of medical care and health services for tobacco-related diseases is a major burden upon the taxpayers of the state; and that in addition to suffering and personal loss by individuals, reduced productivity and other costs resulting from tobacco-related diseases impose an immense burden upon the economy of this state, the tax imposed by this act is levied for the purpose of producing revenue to be used to defray costs incurred by taxpayers of the state resulting from such use of tobacco and to improve the overall health of the population of the state.

Sec. 2. When used in this act:

(a) "Cigarettes" means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco; and

(b) "tobacco products" means cigars, cheroots, stogies,

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periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking.

Sec. 3. In addition to all other occupation or privilege taxes imposed by the state of Kansas or by any political or taxing subdivision thereof, there is hereby levied upon the privilege of selling, distributing and giving away of cigarettes and tobacco in the state of Kansas, a tax:

(a) At the rate of \$.10 on each package of cigarettes, as defined by K.S.A. 79-3301, and amendments thereto, which are sold, distributed or given away in the state of Kansas; and

(b) at the rate of 20% of the wholesale value of all tobacco products sold, distributed or given away in the state of Kansas.

Taxes imposed under the provisions of this act shall be paid only once and shall be paid by the wholesale dealer or distributor first receiving the cigarettes or tobacco products in the state of Kansas.

Sec. 4. On or before the 20th day of each calendar month, every wholesale dealer or distributor responsible for the payment of taxes imposed by this act shall file a return with the director of taxation showing the quantity of cigarettes or tobacco products sold, or otherwise disposed of in the state of Kansas during the preceding calendar month.

Each return shall be accompanied by a remittance for the full tax liability shown therein.

As soon as practicable after any return is filed, the director shall examine the return. If the director finds that the return is incorrect and any amount of tax is due from the wholesale dealer or distributor and unpaid, the director shall notify the wholesale dealer or distributor filing such return of

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the deficiency. If a deficiency disclosed by the director's examination cannot be allocated to a particular month or months, the director may nevertheless notify the wholesale dealer or distributor filing such return that a deficiency exists and state the amount of tax due. Such notice shall be given by registered or certified mail.

Sec. 5. If any wholesale dealer or distributor required by this act to file any return shall fail to do so within the time prescribed by this act, such wholesale dealer or distributor shall, on the written notice of the director given by registered or certified mail, file such return within 20 days after the receipt of such notice, and at the same time pay the tax due on such return. If such wholesale dealer or distributor shall fail within that time to file such return, the director shall make a return for such taxpayer from such director's own knowledge and from such information as the director can obtain through investigation and inspection or otherwise, and assess a tax on the basis thereof, which tax shall be paid within 10 days after the director has mailed a written notice of the amount thereof by registered or certified mail to such wholesale dealer or distributor. Any such return or assessment made by the director on account of the failure of the taxpayer to make a return shall be deemed prima facie correct and valid, and the wholesale dealer or distributor shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

Sec. 6. Any tax imposed by this act not paid on the date prescribed by this act for payment shall bear interest at the rate per month prescribed by subsection (a) of K.S.A. 79-2968 and amendments thereto from the due date. If the director shall find that the wholesale dealer or distributor has made a false and fraudulent return with intent to evade the tax imposed by this act, the director shall assess a penalty of 25% of the entire tax due.

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Sec. 7. The director may recover the amount of any tax due, interest, and any penalty in a civil action. The collection of such tax, interest, or penalty shall not be a bar to any criminal prosecution under this act.

Sec. 8. The wholesale dealer or distributor may request a hearing on any order of the director assessing any tax, additional tax, or penalty. Such request shall be made within 15 days after the receipt of the order or notice from the director. Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

Sec. 9. Following the hearing the director shall make a final decision or final determination and in case any tax or additional tax becomes due thereby, the director's order shall be accompanied by a demand for payment of any tax due. The wholesale dealer or distributor may appeal from the decision of the director in the manner prescribed in K.S.A. 74-2438 and amendments thereto and may appeal from decisions of the board of tax appeals in the manner prescribed by K.S.A. 74-2426 and amendments thereto.

Sec. 10. The secretary of revenue shall have the power to make and enforce such rules and regulations as may be necessary to administer and enforce the provisions of this act. Such rules and regulations shall be filed in the office of the secretary of state as required by law.

Sec. 11. Any person who violates any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000 or imprisoned for not more than one year, or be both so fined and imprisoned.

Sec. 12. All revenues received by the director from taxes imposed by this act shall be deposited monthly with the state treasurer in the state treasury and credited to the tobacco-related disease health protection fund which is hereby created. Moneys credited to such fund shall be expended or

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transferred only for the purposes of: (a) Programs for the prevention and reduction in the use of tobacco; (b) programs for health education and public information regarding tobacco and other health issues; (c) program for the development, planning and implementation of the states strategic health plan; (d) payment to hospitals and clinics for treatment of patients who are unable to pay for treatment and for whom payment will not be made through private coverage or by any program funded in whole or in part by the federal government; and (e) payment to physicians for service to patients unable to pay for such services and for whom payment will not be made through private coverage or by any program funded in whole or in part by the federal government. All expenditures from such fund shall be made in accordance with appropriation acts.

Sec. 13. On or before January 1, 1994, and on or before January 1 each year thereafter, the Kansas state preventive health advisory committee shall make recommendations to the legislature for expenditures from the tobacco-related disease health protection fund subject to the following guidelines: One-third of the expenditures from the fund shall be for prevention and intervention, 1/3 of the expenditures shall be for health education and public information and 1/3 of the expenditures shall be for direct services.

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

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## HOUSE BILL NO. \_\_\_\_\_

AN ACT relating to smoking in the state capitol; amending K.S.A. 75-4505 and repealing the existing section.

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

Section 1. K.S.A. 75-4505 is hereby amended to read as follows: 75-4505. (a) The secretary of administration shall adopt rules and regulations as provided in K.S.A. 75-3706<sup>7</sup> and amendments thereto governing and regulating the conduct of persons on or about any state owned property in Shawnee county, Kansas, designated by such rules and regulations, except properties specified as exceptions in K.S.A. 75-4503 and amendments thereto.

(b) Prior to July 1, 1995, no person shall smoke in any area, room or hallway in the state capitol except in enclosed offices occupied as office space by state officers and employees which have been designated as smoking areas in accordance with K.S.A. 21-4009 et seq. and amendments thereto. On and after July 1, 1995, no person shall smoke in any area, room or hallway in the state capitol and no area of the state capitol shall be established as a designated smoking area under K.S.A. 21-4010 and amendments thereto.

(c) On and after July 1, 1995, no person shall smoke in any state owned building and no area of a state owned building shall be established as a designated smoking area under K.S.A. 21-4010 and amendments thereto.

Sec. 2. K.S.A. 75-4505 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

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HOUSE BILL NO. \_\_\_\_\_

AN ACT limiting the performance of certain treatment procedures.

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

Section 1. As used in this act,

(a) "Spinal Manipulation" means the application of manual or mechanical forces to the human living body's spinal joints and adjacent tissues that produce joint motion beyond the elastic barrier or passive limits of the joint.

(b) "Spinal Mobilization" means the application of non-thrusting forces to the human living body's spinal joints and adjacent tissues without exceeding the elastic barrier or passive limits of the joint with the goal to achieve normal ranges of motion.

(c) "Licensees" means persons licensed to practice chiropractic in the state of Kansas, and persons licensed to practice medicine and surgery in the state of Kansas.

Section 2. Licensees shall be the only persons allowed to perform spinal manipulation on the human living body in the state of Kansas. A licensee shall not prescribe, authorize or delegate such spinal manipulation to any other person unless such other person is also a licensee. This act limits the use of spinal mobilization to licensees and registered physical therapists.

Section 3. Sections 1 to 3, inclusive, and the amendments thereto shall be part of and supplemental to the Kansas healing arts act, and the Kansas physical therapy act.

Section 4. This act shall take effect and be in force from and after its publication in the statute book.

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## BARBER INSTRUCTOR'S CONTINUING EDUCATION AND DISCIPLINARY PROCEDURES

**Definitions.** For the purpose of these laws, the following definitions shall apply:

"Accredited sponsor" means a person or an organization sponsoring continuing education activities which has been approved by the board as a sponsor pursuant to these laws. During the time an organization, educational institution, or person is an accredited sponsor, all continuing education activities of such person or organization may be deemed automatically approved.

"Approved program or activity" means a continuing education program activity meeting the standards set forth in these laws which has received advance approval by the board pursuant to these laws.

"Board" means the board of barbering.

"C.E.C." means continuing education credit. One C.E.C. is 50 to 60 minutes of each clock-hour of instruction spent after December 31, 1992, by a licensee in actual attendance at and completion of an approved continuing education activity. The C.E.C. values shall be assigned in whole units. The board shall assign a C.E.C. value to each approved subject on a case-by-case basis.

"License" means any person licensed to practice the instruction of barbering in the state of Kansas.

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**Continuing education requirements.**

Beginning January 1, 1993, each person licensed to practice the instruction of barbering in this state shall complete during each calendar year a minimum of fifteen (15) hours of continuing education approved by the Board. Compliance with the requirement of continuing education for barber instructors is a prerequisite for license renewal in each subsequent license renewal year.

Hours of continuing education credit may be obtained by attending and participating in a continuing education activity, either previously accredited by the board or which otherwise meets the requirements herein and is approved by the board.

It is the responsibility of each licensee to finance the costs of continuing education.

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**Standards for approval.**

A continuing education activity shall be qualified for approval if the board determines that:

It constitutes an organized program of learning (including a workshop or symposium) which contributes directly to the professional competency of the licensee; and

It pertains to common subjects or other subject matters which integrally relate to the practice of barbering; and

It is conducted by individuals who have a special education, training, and experience by reason of which said individuals should be considered experts concerning the subject matter of the program, and is accompanied by a paper, manual or written outline which substantially pertains to the subject matter of the program.

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**Approval of sponsors, programs, and activities.**

**Accreditation of sponsors.** An organization or person not previously accredited by the board, which desires accreditation as a sponsor of courses, programs, or other continuing education activities, shall apply for accreditation to the board stating its education history for the preceding two years, including approximate dates, subjects offered, total hours of instruction presented, and the name and qualifications of instructors. By January 31 of each year, commencing January 31, 1993, all accredited sponsors report to the board in writing the education programs conducted during the preceding calendar year on a form approved by the board. The board may at any time re-evaluate an accredited sponsor. If after such re-evaluation, the board finds there is basis for consideration of revocation of the accreditation of an accredited sponsor, the board shall give notice by ordinary mail to that sponsor of a hearing on such possible revocation at least 30 days prior to said hearing. The decision of the board after such hearing shall be final.

**Prior approval of activities.** An organization or person other than an accredited sponsor, which desires prior approval of a course, program or other barbering education activity or who desires to establish accreditation of such activity prior to attendance thereat, shall apply for approval to the board at least 90 days in advance of the commencement of the activity on a form provided by the board. The board shall approve or deny such application in writing on a form provided by the board. The board shall approve or deny such application in writing within 60 days of receipt of such application. The application shall state the dates, subjects offered, total hours of instruction, names and qualifications of speakers and other pertinent information.

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**Review of programs.** The board may monitor or review any continuing education program already approved by the board and upon evidence of significant variation in the program presented from the program approved may disapprove all or any part of the approved hours granted the program.

**Hearings.** In the event of denial, in whole or part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant or licensee shall have the right, within 20 days after the sending of the notification of the denial by ordinary mail, to request a hearing which shall be held within 60 days after receipt of the request for hearing. The hearing shall be conducted by the board or a qualified hearing officer designated by the board. If the hearing is conducted by a hearing officer, the hearing officer shall submit a transcript of the hearing including exhibits to the board after the hearing with the proposed decision of the hearing officer. The decision of the board or decision of the hearing officer after adoption by the board shall be final.

**Certificate for continuing education.** Each licensee shall retain the certificate issued by the sponsor indicating completion of continuing education for a period of at least three years from the date of the continuing education.

**Attendance record report.** The person or organization sponsoring continuing education activities shall make a written record of the Kansas barbers instructor licensees in attendance including number of hours completed and send a signed copy of the attendance record to the board upon completion of the educational activity, but in no case later than 30 days following completion of the educational activity. The report shall be sent to the Board of Barbering, 717 South Kansas Avenue, Topeka, Kansas 66603.

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to submit the report within 30 days following the completion of the continuing education activity may result in denial or revocation of sponsor approval by the board.

**Physical disability or illness.** The board may, in individual cases involving physical disability or illness, grant waivers of the minimum education requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor shall be made on forms provided by the board and signed by the licensee and a physician licensed by the board of medical examiners. Waivers of the minimum educational requirements may be granted by the board for any period of time not to exceed one calendar year. In the event that the physical disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

**Exemptions for inactive practitioners.** A licensee who is not engaged in practice of barber instruction in the state of Kansas residing within or without the state of Kansas may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of barber instruction in Kansas without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board.

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**Reinstatement of inactive practioners.** Inactive practioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption shall, prior to engaging in the practice of barbering in the state of Kansas, satisfy the following requirement:

Submit written application for reinstatement to the board upon forms provided by the board; and pay all applicable fees.

If the required report showing proof of continuing education completion is not received by the administrative officer by the annual due date, the barber instructor's and licenses shall be automatically suspended for a period of 90 calendar days or until such time as the individual satisfactorily demonstrates completion of the continuing education requirement whichever is sooner and a penalty of \$100 shall be assessed for the license suspended. If the required proof of continuing education completion and the monetary penalty is not furnished within 90 calendar days of the annual due date, the individual's barber instructor license shall be revoked.

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SESSION OF 1991

SUPPLEMENTAL NOTE ON SENATE BILL NO. 343

As Amended by Senate Committee on  
Public Health and Welfare

**Brief\***

S.B. 343 amends one of the statutes under which the Kansas Dental Board licenses and regulates dentists and dental hygienists.

The amendments add a new paragraph to the grounds set out in K.S.A. 1990 Supp. 65-1436, subsection (a), which sets out the grounds on which the Board may refuse to issue a license or take disciplinary action as authorized in subsection (b) of the statute against a dentist or dental hygienist. The new language would allow the Board to deny, revoke, suspend, or restrict a license to practice as a dentist or a dental hygienist or put a licensee on probation, for repeatedly failing to practice with a level of care or skill and treatment recognized as being acceptable by a reasonably prudent practitioner. Other amendments to paragraph 14 clarify that systematic nondisclosure of the waiver of patient copayment or coinsurance is engaging in misleading, deceptive, or fraudulent misrepresentation in the practice of dentistry or dental hygiene.

The bill also adds a new subsection (d) to the statute that defines unprofessional conduct as used in the statute to constitute grounds for Board action against a licensee.

The Senate Committee amendments are those necessary to conform the proposed amendments, which were taken directly from the Kansas Healing Arts Act, to the practice of dentistry and dental hygiene.

**Background**

S.B. 343 was introduced at the request of the Kansas Dental Association at the request of the Kansas Dental Board. The legislation was supported in Committee hearings by a representative of the Board. The bill was also supported, with amendments, by the Kansas Dental Association.

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\* Supplemental Notes are prepared by the Legislative Research Department and do not express legislative intent.

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SENATE BILL No. 343

By Committee on Public Health and Welfare

2-27

AN ACT concerning grounds for disciplinary action by the Kansas dental board; defining unprofessional conduct; amending K.S.A. 1990 Supp. 65-1436 and repealing the existing section.

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

Section 1. K.S.A. 1990 Supp. 65-1436 is hereby amended to read as follows: 65-1436. (a) The Kansas dental board may refuse to issue the license provided for in this act, or may take any of the actions with respect to any dental or dental hygiene license as set forth in subsection (b), whenever it is established, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, that any applicant for a dental or dental hygiene license or any licensed dentist or dental hygienist practicing in the state of Kansas has:

(1) Committed fraud, deceit or misrepresentation in obtaining any license, money or other thing of value;

(2) habitually used intoxicants or drugs which have rendered such person unfit for the practice of dentistry or dental hygiene;

(3) been determined to be incompetent;

(4) committed gross, wanton or willful negligence in the practice of dentistry or dental hygiene;

(5) *repeatedly failed to practice dentistry or dental hygiene with that level of care, skill and treatment which is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances;*

(5) (6) employed, allowed or permitted any unlicensed person or persons to perform any work in the licensee's office which constitutes the practice of dentistry or dental hygiene under the provisions of this act;

(6) (7) willfully violated the laws of this state relating to the practice of dentistry or dental hygiene or the rules and regulations of the secretary of health and environment or of the board regarding sanitation;

(7) (8) engaged in the division of fees, or agreed to split or divide the fee received for dental service with any person for bringing or

referring a patient without the knowledge of the patient or the patient's legal representative, except the division of fees between dentists practicing in a partnership and sharing professional fees, or in case of one licensed dentist employing another;  
(8) (9) committed complicity in association with or allowed the use of the licensed dentist's name in conjunction with any person who is engaged in the illegal practice of dentistry;  
(9) (10) been convicted of a felony if the board determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust, or a misdemeanor involving moral turpitude;

(10) (11) failed to pay license fees;

(11) (12) used the name "clinic," "institute" or other title that may suggest a public or semipublic activity except that the name "clinic" may be used as authorized in K.S.A. 65-1435 and amendments thereto;

(12) (13) *committed engaged, after becoming a licensee, in unprofessional conduct or any conduct which is detrimental to the public health, safety or welfare as defined by rules and regulations of the board; or*

(13) (14) engaged in a misleading, deceptive, untrue or fraudulent misrepresentation in the practice of dentistry or *dental hygiene* on any document connected with the practice of dentistry *by or dental hygiene, including the systematic nondisclosure of waiver of patient copayment or coinsurance, or has* knowingly submitting submitted any misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement.

(b) Whenever it is established, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, that a licensee is in any of the circumstances or has committed any of the acts described in subsection (a), the Kansas dental board may take one or any combination of the following actions with respect to the license of the licensee:

(1) Revoke the license.

(2) Suspend the license for such period of time as may be determined by the board.

(3) Restrict the right of the licensee to practice by imposing limitations upon dental or dental hygiene procedures which may be performed, categories of dental disease which may be treated or types of patients which may be treated by the dentist or dental hygienist. Such restrictions shall continue for such period of time as may be determined by the board, and the board may require the licensee to provide additional evidence at hearing before lifting such

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1 restrictions.

2 (4) Grant a period of probation during which the imposition of  
3 one or more of the actions described in subsections (b)(1) through  
4 (b)(3) will be stayed subject to such conditions as may be imposed  
5 by the board including a requirement that the dentist or dental  
6 hygienist refrain from any course of conduct which may result in  
7 further violation of the dental practice act or the dentist or dental  
8 hygienist complete additional or remedial instruction. The violation  
9 of any provision of the dental practice act or failure to meet any  
10 condition imposed by the board as set forth in the order of the  
11 board will result in immediate termination of the period of probation  
12 and imposition of such other action as has been taken by the board.

13 (c) The board may upon its own motion or upon the request of  
14 any licensee who is a party to a licensure action require a physical  
15 or mental examination, or both, of such licensee either prior to a  
16 hearing to be held as a part of a licensure action or prior to the  
17 termination of any period of suspension or the termination of any  
18 restrictions imposed upon the licensee as provided in subsection (b).

19 (d) As used in this section, "unprofessional conduct" means:

20 (1) Representing to a patient that a dental disease, condition or  
21 injury can be permanently cured when a licensee knows or should  
22 know that a cure is not possible under current scientific knowledge.

23 (2) Assisting in the care or treatment of a patient without the  
24 consent of the patient or the patient's legal representative.

25 (3) The use of any letters, words or terms, as an affix, on sta-  
26 tionery, in advertisements or otherwise *indicating that such person*  
27 *is entitled to practice a branch of dentistry or dental hygiene*  
28 *for which such person is not licensed or, with respect to spe-*  
29 *cialty representations, does not hold a specialist's certificate*  
30 *indicating that such person is a specialist or is specially qualified in*  
31 *any particular branch of dentistry for which such person does not*  
32 *hold a certificate of qualification under K.S.A. 65-1427 and amend-*  
33 *ments thereto.*

34 (4) Willful betrayal of confidential information.

35 (5) Conduct likely to deceive, defraud or harm the public.

36 (6) Making a false or misleading statement regarding the licen-  
37 see's skill or the efficacy or value of the drug, treatment or remedy  
38 prescribed by the ~~licensee or at the licensee's direction~~ dentist  
39 in the treatment of any dental disease or other dental condition.

40 (7) Aiding or abetting the practice of dentistry, or dental hygiene  
41 ~~or any of the healing arts~~ by an ~~unlicensed~~, incompetent or  
42 impaired person. For the purposes of this paragraph, the term "im-  
43 paired" means unable to perform the ~~duties of the discipline for~~

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1 ~~which the person in question is licensed, certified or otherwise~~  
2 ~~credentialed practice of dentistry or practice of dental hygiene.~~  
3 ~~(8) Allowing another person or organization to use the li-~~  
4 ~~icensee's license to practice dentistry or dental hygiene.~~  
5 ~~(9) (8) Commission of any act of sexual abuse, misconduct or~~  
6 ~~exploitation related to the licensee's professional practice.~~  
7 ~~(10) The use of any false, fraudulent or deceptive statement~~  
8 ~~in any document connected with the practice of dentistry or~~  
9 ~~dental hygiene, to include the systematic nondisclosure of~~  
10 ~~waiver of patient copayment or coinsurance.~~  
11 ~~(11) (9) Directly or indirectly giving or receiving any fee, com-~~  
12 ~~mission, rebate or other compensation for professional services not~~  
13 ~~actually and personally rendered, other than through the legal func-~~  
14 ~~tioning of lawful professional partnerships, corporations or~~  
15 ~~associations.~~  
16 ~~(12) (10) Failure to transfer a copy of dental records to another~~  
17 ~~dentist or to a person licensed to practice medicine and surgery~~  
18 ~~when requested to do so by the subject patient or by such patient's~~  
19 ~~legally designated representative with. The dentist may charge the~~  
20 ~~reasonable costs of copying and transfer to be paid by the patient~~  
21 ~~or the patient's representative.~~  
22 ~~(13) (11) Performing unnecessary tests, examinations or services~~  
23 ~~which have no legitimate dental purpose.~~  
24 ~~(14) (12) Prescribing, dispensing, or administering or distrib-~~  
25 ~~uting a prescription drug or substance, including a controlled sub-~~  
26 ~~stance, in an excessive, improper or inappropriate manner or~~  
27 ~~quantity or not in the course of the licensee's dentist's professional~~  
28 ~~practice as authorized under K.S.A. 65-1444 and amendments~~  
29 ~~thereto.~~  
30 ~~(15) Repeated failure to practice dentistry or dental hygiene~~  
31 ~~with that level of care, skill and treatment which is recognized~~  
32 ~~by a reasonably prudent similar practitioner as being accept-~~  
33 ~~able under similar conditions and circumstances.~~  
34 ~~(16) (13) Failure to keep permanent written dental records~~  
35 ~~which describe the oral status and services rendered to the patient.~~  
36 ~~(17) (14) Delegating professional responsibilities to a person~~  
37 ~~when the licensee knows or has reason to know that such person is~~  
38 ~~not qualified by training, experience or licensure to perform them.~~  
39 ~~(18) (15) Using experimental forms of dental treatment without~~  
40 ~~proper informed patient consent, without conforming to generally~~  
41 ~~accepted criteria or standard protocols, without keeping detailed~~  
42 ~~legible records or without having periodic analysis of the study and~~  
43 ~~results reviewed by a committee of peers as established by the~~

1 ~~American dental association or a comparable body or peers.~~  
2 Sec. 2. K.S.A. 1990 Supp. 65-1436 is hereby repealed.  
3 Sec. 3. This act shall take effect and be in force from and after  
4 its publication in the statute book.

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Scott

3 RS 0661

HOUSE BILL NO. \_\_\_\_\_

By Representative Scott

AN ACT concerning public assistance; providing for the development and implementation of a direct remittance plan for monetary payments made for shelter on behalf of recipients of public assistance.

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

Section 1. (a) As used in this section:

(1) "Financial organization" means any bank, trust company, savings bank, land bank, savings and loan association, credit union or other entity which provides checking account services.

(2) "Plan" means the direct remittance plan established under this section.

(3) "Provider of shelter" means the owner or other person lawfully entitled to receive payment for providing shelter to recipients.

(4) "Recipient" means a person who receives public assistance under article 7 of chapter 39 of the Kansas Statutes Annotated.

(5) "Secretary" means the secretary of social and rehabilitation services.

(b) The secretary of social and rehabilitation services, with the assistance of the director of accounts and reports, shall develop and implement in accordance with this section a direct remittance plan which will provide that monetary payments made for shelter allowance on behalf of a recipient shall be paid directly to the account of the provider of shelter in a financial organization located within this state, to the business address of such provider or to such other place as may be agreed to by the secretary and the provider. On and after January 1, 1994, all monetary payments made for shelter allowance shall be made

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through such direct remittance plan.

(c) The secretary may adopt rules and regulations as necessary to establish the plan, to ensure that any payment for shelter made under the plan is a lawful payment, to ensure that the provider of shelter who receives the payment is lawfully entitled thereto and to administer the provisions of this section.

(d) On or before December 31, 1994, the secretary of social and rehabilitation services shall submit to the governor and to the legislature a report describing how the direct transfer remittance plan was implemented, the results of the operation of the plan during calendar year 1994, including any cost savings which have occurred as a result of the plan, and any recommendations which the secretary may have with respect to the administration of the plan.

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

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State of Kansas  
Joan Finney, Governor



Department of Health and Environment

Robert C. Harder, Secretary

Reply to:

Testimony presented to

House Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

House Bill 2108

Passage of House Bill 2108 would amend the Kansas Bedding Act. Passage of H.B. 2108 would remove requirements for sterilization and disinfection of bedding products intended to be resold. In addition, passage of H.B. 2108 would remove the requirement for bedding articles to carry the official tag identifying manufacturer and materials used.

The provisions of the Kansas Bedding Act were adopted in the 1920's. At that time there was justifiable concern regarding the quality of manufacturing materials and the suitability of articles intended for resale. Mandating tagging of bedding articles was a means in which assurances could be provided that bedding articles were made of safe materials. In the early part of this century it was not uncommon to find bedding articles made from dirty rags, old clothing, carpets or the sweepings from hen house floors.

The public health concerns regarding the manufacture of bedding articles have been abated by the manufacturing industry. Sales of used articles pose little if any concern other than aesthetic appeal. Consideration should be given to the usefulness of tagging providing consumer information regarding hypo-allergenic materials or instructions for product care. In large part, the industry will likely continue the practice of providing consumer information through product tagging.

The KDHE has no objection to passage of H.B. 2108.

Testimony presented by: Stephen N. Paige  
Director  
Bureau of Environmental Health Services  
Division of Health  
February 3, 1993

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