

Approved: 2-11-93
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on February 3, 1993 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Norman Furse, Revisor of Statutes
William Wolff, Legislative Research Department
Emalene Correll, Legislative Research Department
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

State Representative Henry Helgerson
Mack Smith, Executive Secretary, Kansas State Board of Mortuary Arts
Pam Scott, Executive Director, Kansas Funeral Directors and Embalmers Association
Tom Hitchcock, Executive Secretary, Kansas State Board of Pharmacy
Bob Williams, Executive Director, Kansas Pharmacists Association

Others attending: See attached list

The Chair asked for Committee bill introductions. Representative Helgerson appeared before the Committee and requested introduction of two bills prohibiting the use of tobacco products on school property and prohibiting smoking in medical care facilities. Senator Lee made a motion the Committee introduce the two bills requested by Representative Helgerson, seconded by Senator Langworthy. No discussion followed. The motion carried.

The Chair opened the hearing on **SB 83** - Examinations for embalmer's license. Mack Smith, State Board of Mortuary Arts, appeared before the Committee and submitted written testimony in support of the bill. (Attachment 1) Mr. Smith stated the bill would allow the Board to accept the national examination prepared and administered by the Conference of Funeral Service Examining Boards as the Kansas licensing examination for applicants applying for an embalmer's license. In regard to fees, staff will check if the statute needs to be amended.

Pam Scott, Kansas Funeral Directors, also expressed support for **SB 83**. (Attachment 2)

The Chair opened the hearing on **SB 84** - Civil penalties for the violation of pharmacy act.

Tom Hitchcock, Kansas State Board of Pharmacy, appeared before the Committee and submitted written testimony in support of **SB 84**. (Attachment 3) Mr. Hitchcock stated the bill consists of three changes in the pharmacy act and described the changes in the bill which would give the Board of Pharmacy the authority to impose administrative fines on its licensees and registrants. The bill would limit the amount of the fine to \$500 for each violation, all of which would be deposited in the state general fund. The bill also removes language requiring transferred prescriptions to have information recorded on the front side of the prescription, thereby allowing the information to be recorded on the reverse side instead. The Board of Pharmacy would be allowed to promulgate rules and regulations to provide exceptions on registering nonresident pharmacies which have only isolated transactions within the state. Committee discussion related to regulation of drugs coming into the United States and the registration of a nonresident pharmacy. Staff brought attention to the civil penalty section, and questioned if the Board of Pharmacy amount of \$500 was an adequate assessment.

Bob Williams, Kansas Pharmacists Association, appeared before the Committee and stated his support of **SB 84**. Mr. Williams stated the registration of out-of-state pharmacies appeared to be running smoothly and in compliance with the law.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S
Statehouse, at 10:00 a.m. on February 3, 1993.

Staff provided copies of a balloon of **SB 14** - definition of charitable health care providers expanded - and briefed the Committee on reasons for further amending the bill which was passed out of Committee on January 27, 1993. (Attachment 4) After Committee discussion on the technical changes as outlined in the balloon and language regarding the approval process with the recommendation to delete "approve" at the appropriate place, Senator Salisbury made a motion to approve the additional amendments as recommended in the balloon of the bill, seconded by Senator Hardenburger. No discussion followed. The motion carried.

The meeting was adjourned at 10:50 A.M.

The next meeting is scheduled for February 4, 1993.

GUEST LIST

COMMITTEE: SENATE PUBLIC HEALTH AND WELFARE

DATE: 2-3-93

[illegible]

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PHILLIPSBURG

MR. MATTHEW J. SKRADSKI,

KANSAS CITY

OFFICE STAFF

MACK SMITH,

EXECUTIVE SECRETARY

FRANCIS F. MILLS,

INSPECTOR-INVESTIGATOR

TERRY A. BLAND,

OFFICE SECRETARY

The Kansas

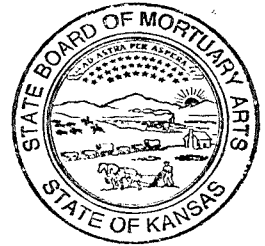
State Board of Mortuary Arts

CREATED AUG. 1, 1907

700 S.W. JACKSON ST., SUITE 904

TOPEKA, KANSAS 66603-3758

(913) 296-3980



SENATE PUBLIC HEALTH AND WELFARE COMMITTEE: Senator Sandy Praeger, Chairperson

S.B. 83

Madam Chair and Members of the Committee:

My name is Mack Smith, and I am the Executive Secretary to the Kansas State Board of Mortuary Arts. Thank you for the opportunity to testify today.

S.B. 83 was introduced by this committee at the Mortuary Art Board's request. The bill would allow the board to accept the national examination prepared and administered by the Conference of Funeral Service Examining Boards as the Kansas licensing examination. The Conference currently writes the state examination administered by the board.

The Mortuary Arts Board would like to switch to the national examination for the following reasons:

- 1) due to curriculum changes at the colleges it is now necessary to change the structure of the examination. Instead of a seven section test (based on 6 sections of science and 1 section of mortuary administration) the national examination consists of two sections:
 - A) Funeral Service Science (including embalming, restorative art, microbiology, pathology, chemistry and anatomy), and
 - B) Funeral Service Arts (including sociology, psychology, funeral directing, business law, funeral service law, funeral merchandising and accounting).
- 2) the board feels that the national examination better reflects the actual tasks performed by licensees in their profession.

Lines 37-38 on page one (1) of the bill reflect the method that the Conference uses to determine passing of the national examination. An over-all score of 75% is required with a minimum of 70% in either section of the test.

Lines 22-23 on page two (2) of the bill allow the Mortuary Arts board to select the examination--opposed to the questions. The National Conference has the financial resources to put together an examination reflective of current tasks being performed in the field of practice. They have written a "validated" examination that the Mortuary Arts Board feels is the best possible product on the market today. The examination is given in all but 3 states. The passage of this bill would allow Kansas to accept the national examination for applicants applying for an embalmer license.

Thank you in advance for your support of S.B. 83.

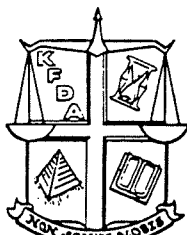
Sincerely,

Mack Smith, Executive Secretary
Kansas State Board of Mortuary Arts

MS:tab

*Senate Praeger
attachment 1*

2-3-93



AFFILIATED WITH N.F.D.A.

THE KANSAS FUNERAL DIRECTORS AND EMBALMERS ASSOCIATION, INC.

EXECUTIVE OFFICE — 1200 KANSAS AVENUE, P.O. BOX 1904

TOPEKA, KANSAS 66601

PHONE 913-232-7789

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JERRY LARRISON
Pratt

Executive Director
PAMELA SCOTT

Testimony Presented to

Senate Public Health and Welfare Committee

by the

Kansas Funeral Directors and Embalmers Association

on

Senate Bill No.83

Madam Chairman and members of the committee, my name is Pam Scott and I am Executive Director of the Kansas Funeral Directors and Embalmers Association.

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Kinsley

I am here to voice the Kansas Funeral Director and Embalmers Association's support of Senate Bill No. 83. If enacted, Senate Bill No. 83 would allow the Board of Mortuary Arts to accept the national examination which is administered by the Conference of Funeral Service Examining Boards.

Since the Conference of Funeral Service Examining Boards is currently writing the questions for the Kansas exam, we do not believe there will be a significant difference in exam questions. We believe we will see a greater emphasis placed on certain topics that more accurately reflect the nature of the tasks performed by embalmers today. Acceptance of the national examination would also allow the examination to be taken in a state other than Kansas which is a welcome convenience.

We would ask for your support of Senate Bill No. 83.

Senate Bill 83
Attachment #2
2-3-93

Kansas State Board of Pharmacy

LONDON STATE OFFICE BUILDING
900 JACKSON AVENUE, ROOM 513
TOPEKA, KANSAS 66612-1231
PHONE (913) 296-4056

STATE OF KANSAS

SB 84 TESTIMONY

SENATE PUBLIC HEALTH & WELFARE COMMITTEE

FEBRUARY 3, 1993



JOAN FINNEY
GOVERNOR

MADAM CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS TOM HITCHCOCK AND I SERVE AS THE EXECUTIVE SECRETARY OF THE BOARD OF PHARMACY. I APPEAR BEFORE YOU TODAY ON BEHALF OF THE BOARD IN SUPPORT OF SB 84.

THE BILL CONSISTS OF THREE (3) CHANGES IN THE PHARMACY ACT. THE FIRST CHANGE APPEARS ON PAGE 1, LINES 13 THRU 24 IN THE FORM OF A NEW SECTION. THIS SECTION WILL ALLOW THE BOARD TO SANCTION CIVIL FINES AGAINST A PHARMACIST, PHARMACY OR DISTRIBUTOR IN AN AMOUNT NOT TO EXCEED \$500 FOR EACH VIOLATION. IN COMPARISON THE KANSAS BOARD OF NURSING AND HEALING ARTS BOTH HAVE THE ABILITY TO IMPOSE CIVIL FINES AS DO 33 OTHER STATE BOARDS OF PHARMACY.

THE SECOND CHANGE IS ON PAGE 2, LINE 21 WHICH STRIKES THE REQUIREMENT THAT SOME RECORD KEEPING BE RECORDED ON THE FACE OF A TRANSFERRED PRESCRIPTION. IF THE TRANSFER WERE A CONTROLLED SUBSTANCE (CS) PRESCRIPTION, SUCH RECORD KEEPING WOULD NOT BE IN COMPLIANCE WITH FEDERAL DEA REGULATION 21 C.F.R. 1306.26(a)(1).

THE THIRD CHANGE IS ON PAGE 5, LINES 22 THRU 28. THIS ADDITIONAL SUBSECTION WILL ALLOW THE BOARD TO PROMULGATE REGULATIONS TO EXEMPT FROM REGISTRATION A NONRESIDENT PHARMACY WHICH SUPPLIES SOMEONE IN THIS STATE A PRESCRIPTION ONLY IN ISOLATED TRANSACTIONS.

THE BOARD OF PHARMACY RESPECTFULLY REQUESTS THE FAVORABLE PASSAGE OUT OF COMMITTEE SENATE BILL 84.

THANK YOU.

Senate PH&W
Attachment #
3
2-3-93

SENATE BILL No. 14

By Joint Committee on Health Care Decisions for the 1990's

1-11

and

8 AN ACT concerning health care providers; relating to charitable
9 health care providers; amending K.S.A. 65-2809 and K.S.A. 1992
10 Supp. 75-6102, 75-6115, ~~75-6117 and 75-6120~~ and repealing the
11 existing sections.
12

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

14 Section 1. K.S.A. 65-2809 is hereby amended to read as follows:
15 65-2809. (a) The license shall expire on the date established by rules
16 and regulations of the board which may provide renewal throughout
17 the year on a continuing basis. In each case in which a license is
18 renewed for a period of time of less than one year, the board may
19 prorate the amount of the fee established under K.S.A. 65-2852 and
20 amendments thereto. The request for renewal shall be on a form
21 provided by the board and shall be accompanied by the prescribed
22 fee, which shall be paid not later than the expiration date of the
23 license.

24 (b) Except as otherwise provided in this section, the board shall
25 require every licensee in the active practice of the healing arts within
26 the state to submit evidence of satisfactory completion of a program
27 of continuing education required by the board. The requirements
28 for continuing education for licensees of each branch of the healing
29 arts shall be established by the members of such branch on the
30 board. The board shall adopt rules and regulations prescribing the
31 requirements established by the members of each branch of the
32 healing arts for each program of continuing education as soon as
33 possible after the effective date of this act. In establishing such
34 requirements the members of the branch shall consider any programs
35 of continuing education currently being offered to such licensees.
36 If, immediately prior to the effective date of this act, any branch of
37 the healing arts is requiring continuing education or annual post-
38 graduate education as a condition to renewal of a license, the re-
39 quirement as a condition for the renewal of the license shall continue
40 notwithstanding any other provision of this section.

(c) The board, prior to renewal of a license, shall require the
licensee, if in the active practice of the healing arts within the state,
43 to submit to the board evidence satisfactory to the board that the

Senate Bill 14
Att. 1-11
2-3-93

1 licensee is maintaining a policy of professional liability insurance as
2 required by K.S.A. 40-3402 and amendments thereto and has paid
3 the annual premium surcharge as required by K.S.A. 40-3404 and
4 amendments thereto.

5 (d) At least 30 days before the expiration of a licensee's license,
6 the board shall notify the licensee of the expiration by mail addressed
7 to the licensee's last place of residence as noted upon the office
8 records. If the licensee fails to pay the annual fee by the date of
9 the expiration of the license, the licensee shall be given a second
10 notice that the licensee's license has expired, that the board will
11 suspend action for 30 days following the date of expiration, that upon
12 receipt of the annual fee and an additional fee not to exceed \$500
13 within the thirty-day period the license shall not be canceled and
14 that, if both fees are not received within the thirty-day period, the
15 license shall be cancelled.

16 (e) Any licensee who allows the licensee's license to be canceled
17 by failing to renew may be reinstated upon recommendation of the
18 board and upon payment of the renewal fees then due and upon
19 proof of compliance with the continuing educational requirements
20 established by the board.

21 (f) There is hereby created a designation of exempt license. The
22 board is authorized to issue an exempt license to any licensee who
23 makes written application for such license on a form provided by
24 the board and remits the fee for an exempt license established pur-
25 suant to K.S.A. 65-2852 and amendments thereto. The board may
26 issue an exempt license only to a person who has previously been
27 issued a license to practice the healing arts in Kansas, who is no
28 longer regularly engaged in such practice and who does not hold
29 oneself out to the public as being professionally engaged in such
30 practice. An exempt license shall entitle the holder to all privileges
31 attendant to the branch of the healing arts for which such license
32 is issued. Each exempt license may be renewed annually subject to
33 the provisions of this section. Each exempt licensee shall be subject
34 to all provisions of the healing arts act, except as otherwise provided
35 in this subsection (f). The holder of an exempt license shall not be
36 required to submit evidence of satisfactory completion of a program
37 of continuing education required by K.S.A. 65-2809 and amend-
38 ments thereto this section. Each exempt licensee may apply for a
39 license to regularly engage in the practice of the appropriate branch
40 of the healing arts upon filing a written application with the board
41 and submitting evidence of satisfactory completion of applicable con-
42 tinuing education requirements established by the board. The re-
43 quest shall be on a form provided by the board and shall be

75-6102

"Employee"

1 accompanied by the license fee established pursuant to K.S.A. 65-
2 2852 and amendments thereto. The board shall adopt rules and
3 regulations establishing appropriate continuing education require-
4 ments for exempt licensees to become licensed to regularly practice
5 the healing arts within Kansas. Nothing in this subsection (f) shall
6 be construed to prohibit a person holding an exempt license from
7 serving as a coroner ~~or prior to July 1, 1995, as a paid employee~~
8 ~~of (1) a local health department as defined by K.S.A. 65-241 and~~
9 ~~amendments thereto, or (2) an indigent health care clinic as defined~~
10 ~~by K.S.A. 75-6115 and amendments thereto.~~

11 Sec. 2. K.S.A. 1992 Supp. 75-6102 is hereby amended to read
12 as follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and
13 amendments thereto, unless the context clearly requires otherwise:

14 (a) "State" means the state of Kansas and any department or
15 branch of state government, or any agency, authority, institution or
16 other instrumentality thereof.

17 (b) "Municipality" means any county, township, city, school dis-
18 trict or other political or taxing subdivision of the state, or any
19 agency, authority, institution or other instrumentality thereof.

20 (c) "Governmental entity" means state or municipality.

21 (d) "Employee" means any officer, employee, servant or member
22 of a board, commission, committee, division, department, branch or
23 council of a governmental entity, including elected or appointed
24 officials and persons acting on behalf or in service of a governmental
25 entity in any official capacity, whether with or without compensation
26 and a charitable health care provider. Employee includes any steward
27 or racing judge appointed pursuant to K.S.A. 1990 Supp. 74-8818,
28 and amendments thereto, regardless of whether the services of such
29 steward or racing judge are rendered pursuant to contract as an
30 independent contractor, but does not otherwise include any inde-
31 pendent contractor under contract with a governmental entity but
32 does include a person who is an employee of a nonprofit independent
33 contractor, other than a municipality, under contract to provide ed-
34 ucational or vocational training to inmates in the custody of the
35 secretary of corrections and who is engaged in providing such service
36 in an institution under the control of the secretary of corrections
37 provided that such employee does not otherwise have coverage for
38 such acts and omissions within the scope of their employment
39 through a liability insurance contract of such independent contractor.

40 ~~Prior to July 1, 1995, "employee" also includes an employee of an~~
41 ~~indigent health care clinic. "Employee" also includes former em-~~
42 ~~ployees for acts and omissions within the scope of their employment~~
43 ~~during their former employment with the governmental entity.~~

(e) "Community service work" means public or community service performed by a person (1) as a result of a contract of diversion entered into by such person as authorized by law, (2) pursuant to the assignment of such person by a court to a community corrections program, (3) as a result of suspension of sentence or as a condition of probation pursuant to court order, (4) in lieu of a fine imposed by court order or (5) as a condition of placement ordered by a court pursuant to K.S.A. 38-1663, and amendments thereto.

(f) "Charitable health care provider" means a person licensed by the state board of healing arts as an exempt licensee or a health care provider as the term "health care provider" is defined under K.S.A. 65-4921, and amendments thereto, who has entered into an agreement with:

(1) The secretary of health and environment under K.S.A. 1990 1992 Supp. 75-6120, and amendments thereto, who, pursuant to such agreement, *gratuitously* renders professional services to a person who has provided information which would reasonably lead the health care provider to make the good faith assumption that such person meets the definition of medically indigent person as defined by this section and ~~who renders such professional services gratuitously or to a person receiving medical assistance from the programs operated by the department of social and rehabilitation services,~~ and who is considered an employee of the state of Kansas under K.S.A. 1990 1992 Supp. 75-6120, and amendments thereto; or

(2) a local health department ~~that is part of the pilot programs established under K.S.A. 1991 Supp. 65-226 and amendments thereto or indigent health care clinic who, pursuant to such agreement,~~ *which* renders professional ~~service~~ services to medically indigent persons or persons receiving medical assistance from the programs operated by the department of social and rehabilitation services gratuitously or for a fee paid by the local health department ~~or indigent health care clinic to such provider and who is considered an employee of the state of Kansas under K.S.A. 1992 Supp. 75-6120 and amendments thereto. Professional services rendered shall be considered gratuitous notwithstanding fees based on income eligibility guidelines charged by a local health department or indigent health care clinic.~~

(g) "Medically indigent person" means a person who lacks resources to pay for medically necessary health care services and who meets the eligibility criteria for qualification as a medically indigent person established by the secretary of health and environment under K.S.A. 1990 1992 Supp. 75-6120, and amendments thereto.

(h) "Indigent health care clinic" means an outpatient medical care clinic operated on a not-for-profit basis which has a contractual agreement in effect with the secretary of health and environment to provide health care services to medically indigent persons.

(i) "Local health department" shall have the meaning ascribed to such term under K.S.A. 65-241 and amendments thereto.

~~(j) The provision of subsections (f), (h) and (i) shall expire on July 1, 1995.~~

Sec. 3. K.S.A. 1992 Supp. 75-6115 is hereby amended to read as follows: 75-6115. (a) The Kansas tort claims act shall not be applicable to claims arising from the rendering of or failure to render professional services by a health care provider other than a charitable health care provider or a hospital owned by a municipality and the employees thereof:

A

- (1) ~~Prior to July 1, 1995, a~~ charitable health care provider;
- (2) a hospital owned by a municipality and the employees thereof;
- (3) ~~prior to July 1, 1995, a~~ local health department and the employees thereof; or
- (4) ~~prior to July 1, 1995, an~~ indigent health care clinic and the employees thereof.

(b) Claims for damages against a health care provider that is a governmental entity or an employee of a governmental entity other than a charitable health care provider or a hospital owned by a municipality and the employees thereof those health care providers enumerated in subsection (a), arising out of the rendering of or failure to render professional services by such health care provider, may be recovered in the same manner as claims for damages against any other health care provider.

~~(b)~~ (c) As used in this section:

(1) "Indigent health care clinic" shall have the meaning ascribed to such term under K.S.A. 75-6102, and amendments thereto.

~~(1)~~ (2) "Charitable health care provider" shall have the meaning provided by ascribed to such term under K.S.A. 75-6102, and amendments thereto.

~~(2)~~ (3) "Health care provider" shall have the meaning provided by ascribed to such term under K.S.A. 40-3401, and amendments thereto.

~~(3)~~ (4) "Hospital" means a medical care facility as defined in K.S.A. 65-425, and amendments thereto, and includes within its meaning any clinic, school of nursing, long-term care facility, child-care facility and emergency medical or ambulance service operated in connection with the operation of the medical care facility.

(5) "Local health department" shall have the meaning ascribed

1 to such term under K.S.A. 65-241 and amendments thereto.

2 ~~(6) The provisions of paragraphs (1), (2) and (3) of this subsection~~
3 ~~shall expire on July 1, 1995.~~

4 Sec. 4. K.S.A. 1992 Supp. 75-6117 is hereby amended to read
5 as follows: 75-6117. (a) There is hereby established in the state
6 treasury the tort claims fund which shall be administered by the
7 attorney general. All expenditures from such fund shall be made
8 upon warrants of the director of accounts and reports pursuant to
9 vouchers approved by the attorney general or by a designee of the
10 attorney general.

11 (b) Moneys in the tort claims fund shall be used only for the
12 purpose of paying (1) compromises, settlements and final judgments
13 arising from claims against the state or an employee of the state
14 under the Kansas tort claims act or under the civil rights laws of
15 the United States or of the state of Kansas and (2) costs of defending
16 the state or an employee of the state in any actions or proceedings
17 on those claims. ~~Except for claims against the state or an em-~~
18 ~~ployee of the state in any actions or proceedings arising from~~
19 ~~rendering or failure to render professional services by a char-~~
20 ~~itable health care provider to a medically indigent person or~~
21 ~~by a charitable health care provider who has contracted with~~
22 ~~a local health department that is part of the pilot programs~~
23 ~~established under K.S.A. 1991 Supp. 65-226 and amendments~~
24 ~~thereto to medically indigent persons or persons receiving med-~~
25 ~~ical assistance from the programs operated by the department~~
26 ~~of social and rehabilitation services, to the extent that payment~~
27 ~~cannot be made from insurance coverage obtained therefor,~~
28 ~~payment of a compromise or settlement shall be made from~~
29 ~~the fund if the compromise or settlement has been approved~~
30 ~~by the state finance council as provided in K.S.A. 75-6106 and~~
31 ~~amendments thereto. Except for claims against the state or an~~
32 ~~employee of the state in any actions or proceedings arising~~
33 ~~from rendering or failure to render professional services by a~~
34 ~~charitable health care provider to a medically indigent person~~
35 ~~or by a charitable health care provider who has contracted with~~
36 ~~a local health department that is part of the pilot programs~~
37 ~~established under K.S.A. 1991 Supp. 65-226 and amendments~~
38 ~~thereto to medically indigent persons or persons receiving med-~~
39 ~~ical assistance from the programs operated by the department~~
40 ~~of social and rehabilitation services, to the extent that payment~~
41 ~~cannot be made from insurance coverage obtained therefor,~~
42 ~~payment of a final judgment shall be made from the fund if~~
43 ~~there has been a determination of any appeal taken from the~~

judgment or, if no appeal is taken, if the time for appeal has expired. Payment of a compromise or settlement shall be subject to approval by the state finance council as provided in K.S.A. 75-6106 and amendments thereto. Payment of a final judgment shall be made from the fund if there has been a determination of any appeal taken from the judgment or, if no appeal is taken, if the time for appeal has expired. No payment shall be made to satisfy a compromise, settlement or final judgment when there exists insurance coverage obtained therefor, except that prior to July 1, 1995, payment shall be made from the fund to satisfy a compromise settlement or final judgment for claims against the state or an employee of the state in any actions or proceedings arising from rendering or failure to render professional services by (A) a charitable health care provider as defined by K.S.A. 75-6102 and amendments thereto, (B) a local health department as defined by K.S.A. 65-241 and amendments thereto or an employee thereof, or (C) an approved indigent health care clinic as defined by K.S.A. 75-6115 and amendments thereto, or an employee thereof, even if there exists insurance coverage obtained therefor.

(c) Upon certification by the attorney general to the director of accounts and reports that the unencumbered balance in the tort claims fund is insufficient to pay an amount for which the fund is liable, the director of accounts and reports shall transfer an amount equal to the insufficiency from the state general fund to the tort claims fund.

(d) The legislature shall review annually claims against and expenditures from the tort claims fund arising from the rendering of or failure to render professional services by a charitable health care provider as defined by K.S.A. 75-6102 and amendments thereto and shall ascertain annually the number of charitable health care providers and the extent to which the availability of coverage to charitable health care providers under the tort claims fund has increased services provided to the medically indigent and to persons receiving medical assistance from the programs operated by the department of social and rehabilitation services. The provisions of this subsection shall expire on July 1, 1995.

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

Sec. 5. K.S.A. 1992 Supp. 75-6120 is hereby amended to read as follows: 75-6120. (a) The secretary of health and environment may enter into agreements with charitable health care providers in which such charitable health care provider stipulates to the secretary of health and environment that when such charitable health care pro-

from the fund

: (A) Prior

(i)

(ii)

(iii)

; and (B) on and after July 1, 1995, payment shall be made from the fund to satisfy a compromise, settlement or final judgment for claims against the state or an employee of the state in any actions or proceedings arising from rendering or failure to render professional services by (i) a charitable health care provider as defined by K.S.A. 75-6102 and amendments thereto, (ii) a local health department as defined by K.S.A. 65-241 and amendments thereto or an employee thereof, or (iii) an approved indigent health care clinic as defined by K.S.A. 75-6115 and amendments thereto, or an employee thereof, even if there exists insurance coverage obtained therefor, but only if the act giving rise to the claim against the state or an employee of the state occurred prior to July 1, 1995.

4-8

vider renders professional services to a medically indigent person such services will be provided gratuitously. The secretary of health and environment shall adopt rules and regulations which specify the conditions for termination of any such agreement, and such rules and regulations are hereby made a part of any such agreement. A charitable health care provider for purposes of any claim for damages arising as a result of rendering professional services to a medically indigent person, which professional services were rendered gratuitously at a time when an agreement entered into by the charitable health care provider with the secretary of health and environment under this section was in effect, shall be considered an employee of the state under the Kansas tort claims act.

(b) The secretary of health and environment shall establish by rules and regulations eligibility criteria for determining whether a person qualifies as a medically indigent person.

(c) Any claim arising from the rendering of or failure to render professional services by a charitable health care provider brought pursuant to the Kansas tort claims act shall not be considered by an insurance company in determining the rate charged for any professional liability insurance policy for health care providers or whether to cancel any such policy.

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

~~(e) The provisions of this section shall expire on July 1, 1995.~~

Sec. 6. K.S.A. 65-2809 and K.S.A. 1992 Supp. 75-6102, 75-6115, 75-6117 and 75-6120 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

5

and

6