

Approved: February 22, 1994
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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 14, 1994 in Room 423-S of the Capitol.

All members were present except: Rep. Rutledge, excused.

Committee staff present:

William Wolff, Legislative Research Department
Norman Furse, Revisor of Statutes
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Rep. Nichols
Rita Wolf, Director of Management Services Division/Department of SRS
Rep. Neufeld
Rep. Wagle
Rep. Gatlin
Pat Johnson, Executive Administrator, Kansas Board of Nursing
Terri Roberts, Executive Director, Kansas Nurses Association
Karen Gilpin, Nurse educator at Neosho County Community College
Shannon Bonesteel, senior nursing student, Hutchinson Community College
Susan Fry, President-elect of Kansas Organization of Nurse Executives
Tom Bell, Kansas Hospital Association
Georgenia Bowling, President of Kansas Association of Nursing Students

Others attending: See attached list

Chair called the meeting to order drawing attention to Committee minutes of 2/8/94. She noted, if there are corrections call Committee secretary by 5:00 p.m. tomorrow (2/15/94). If there are none, the minutes will be considered approved as presented.

Chair announced the Sub-Committee on **SB 120** will meet on adjournment of the regular meeting on Public Health and Welfare in this room (423-S).

Chair invited those persons with requests for legislation to begin.

Rep. Nichols drew attention to a letter from a Mr. Charles Cozad that had been distributed to members on February 2, 1994, as attachment No.3. Since that time, Rep. Nichols has worked with the Revisor's office in drafting legislation per Mr. Cozad's request. (He distributed a bill draft, (Attachment No. 1)

Rep. Nichols explained the draft, noting it deals with confidentiality of complaints and reports kept by the Board of Healing Arts. There were no questions after his remarks.

Rep. O'Connor moved to introduce this request by Rep. Nichols. Motion seconded by Rep. Mayans. Motion carried.

Rita Wolff, Director of Management Services, Department of SRS requested legislation, see (Attachment No.2). She noted this request is in behalf of the Long-Term Care Action Committee. She noted, the request relates to definitions of adult care homes, and other providers to offer care in the least restrictive setting. She detailed rationale.

Rep. Nichols moved to introduce legislation proposed by Ms. Wolf, seconded by Rep. Mayans. No discussion. Motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 423-S
Statehouse, at 1:30 p.m. on February 14, 1994.

Rep. Neufeld stated, in working with the American Disabilities Act, (ADA) a conflict regarding building construction had been discovered between state law and ADA. He stated that law would need to be amended so that legally a public building could be built. He stated the State architects, the people from ADA have discussed the issue. Rep. Neufeld requests introduction of legislation that would clean-up the American Disabilities Act. (He offered no attachment).

Rep. Wagle moved to introduce this request for clean-up language proposed by Rep. Neufeld, seconded by Rep. Neufeld. No discussion. Motion carried.

Rep. Wagle offered hand-out (see (Attachment No. 3)). She noted that currently the Department of SRS is paying for psychiatric and drug rehabilitation services if these services are done in a hospital setting, but if a hospital chooses to contract out to another provider, SRS isn't paying for those services. This is related to a situation in Wichita, and Rep. Wagle thinks this issue needs to be looked into. She answered questions.

Rep. Mayans, moved to introduce the legislation proposed by Rep. Wagle, seconded by Rep. Wells. No discussion. Motion carried.

Chairperson Flower then stated, in reviewing the minutes on testimony and questions surrounding **HB 2772 and HB 2786**, it appears there are concerns that need to be worked out. She appointed a **Sub-committee** to deal with both of these bills. Rep. Scott as Chair with Rep. Morrison and Rep. Goodwin also serving.

Chair drew attention to **HB 2603**.

Chair announced Ms. Correll is ill and has pneumonia. She requested that Dr. Wolff give the briefing.

Dr. Wolff explained **HB 2603**, noting, it amends the nurse practice act. He drew attention to the required educational qualifications for licensure; the only way to be licensed by the Board, (as he interprets the language), is by examination. He noted perhaps members might wish to inquire of conferees regarding language that appears to provide authority for the Board to enter into reciprocal arrangements between other jurisdictions, or acceptance of standards of the examination and qualifications from that of other jurisdictions. He explained the educational requirements; noted a new limit on temporary permits for licensure of registered professional nurses now is 90 days, with a 30 day extension making the total only 120 days. Current law allows a student to practice after graduation but before the examination for a license. Striking language in lines 42-43 on page 4 and top of page 5 in lines 1-2 would remove that allowance.

HEARING BEGAN ON **HB 2603**.

Rep. Gatlin offered a hand-out, (Attachment No. 4), and noted his testimony refers to one portion in **HB 2603** that deals with licensure of practical nurses. He drew attention to an amendment, (Attachment No.5) that would allow a graduate registered nurse to use that registered nurse education to qualify to take the Licensed Practical Nurse (LPN) examination. He offered rationale, i.e., if an applicant for licensed practical nurse has completed a registered nursing curriculum, that curriculum should suffice as an educational requirement for the LPN. He drew attention to proposed changes in lines 15-17 by adding "or professional nursing".

Pat Johnson, Executive Administrator, Kansas Board of Nursing offered hand-out, (see Attachment No.6). She drew attention to three topics in the proposed language, i.e., to clarify what qualifications must be met before an applicant is eligible for licensure, clarification of requirements of a refresher course if a nurse has been unlicensed for more than 5 years; and to request an amendment to paragraph (e), and she detailed rationale. She offered a detailed explanation of the computer adaptive testing (CAT) that would be implemented after April 1, 1994, noting all examinations will be administered per computer. She detailed the procedure for testing following graduation from nursing, noted with the new procedure, everyone can test within 30-45 days. She discussed the orientation process students go through in the work place after they are hired, and suggests this orientation program can take place before the license is issued, therefore not putting either the graduate or the employer to a disadvantage. By not allowing nursing practice by exemption until the results of the first examination or by issuing a temporary permit, the Board hopes to prevent unlicensed practice. She noted, without a license having been granted, employers do not know if new graduates are competent nurses. She summarized, i.e., the Board will be able to license foreign educated nurses; nurses out of practice can get an update before going back to work; an exemption for advanced registered nurse practitioner students will be allowed with the exemption for graduate practice being removed. She urged favorable consideration of **HB 2603**.

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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 423-S
Statehouse, at 1:30 p.m. on February 14, 1994.

Chair asked members to hold questions until all the conferees had had an opportunity to present their testimony.

Terri Roberts, Executive Director, Kansas State Nurses Association offered (Attachment No.7). She stated support to **HB 2603** as it relates to the review/processing of foreign applicants for licensure, and the accommodation for nurses taking refresher courses. After careful consideration of **HB 2603** she offered an amendment that would permit GN, GPN practice for 120 days following graduation, or until receipt of the first licensing, which ever occurs first. She drew attention to a balloon copy of **HB 2603** then detailed the proposed amendment.

Karen Gilpin, Nurse Educator, Neosho County Community College offered hand-out (Attachment No.8). She drew attention to the amendment proposed in **HB 2603** that would provide an incentive to sign up for the CAT exam, a 120 day time limit, but would retain the ability of GN's and GPN's to practice pending the results of the first computer test they take. She detailed rationale. She noted there exists no documentation that there has been a problem with the quality of health care services delivered during the time a student graduate is licensed. Because there will be a change in the way the testing of graduates is being done and not the way the students are educated, there should be no change from what they have experienced in the nursing practice setting. She urged support for the amendment to permit GN's and GPN's to practice during the time prior to the results of their first licensure examination.

Shannon Bonesteel, (Attachment No. 9) stated concerns regarding the restriction of graduate nurses from working after graduation until their license has been issued. She asked that she and other fellow nursing students nearing graduation not have their work be interrupted, but be allowed to continue in their profession.

Susan Fry, (Attachment No. 10) stated, the Board of Nursing has assured the Kansas Organization of Nurse Executives (KNOE), they do not intend to create their own standards to review curricula from other countries. Rather, it is the intent of the Board of Nursing to utilize recognized standards employed by a nationally recognized credentialing agency. She stated support for selected changes, especially those affecting the qualifications of applicants. However, there is strong opposition to the proposal removal of part of the exemption clause currently contained within the practice act, i.e., which affects new graduate nurses. She explained. She then drew attention to the removal of language from Sec. 3, KSA 65-1124 (e), noting this will delay entry into practice for nurse graduates. There is concern that these graduates will not practice in Kansas but select positions elsewhere, particularly in Missouri which has endorsed the use of temporary permits to allow new graduates to practice for a limited time. Currently, responsible nurse leaders will place institutional requirements on new employees which protect patients. Responsible nurses will not jeopardize the welfare of patients. She noted the KNOE supports the amendment to **HB 2603** that would modify language to read, i.e., Sec. 3, "no provisions of this law shall be construed as prohibiting: (e) ..the practice of nursing by students enrolled in accredited schools of professional or practical nursing nor nursing by graduates of such schools or courses for 120 days after graduation or until results of the first licensure exam are received, which ever comes first."

Tom Bell, Kansas Hospital Association (Attachment No. 11) stated support of the amendment proposed by the Kansas Nurses Association. The policy of bordering states having a policy to allow graduate nurses to practice makes sense for Kansas to have a similar policy. He noted, if **HB 2603** is adopted the way it is currently written, it would allow students to practice, but not graduate nurses to practice, pending results of the examination. He noted, students who have completed professional nursing (RN) courses in this country and foreign countries who would be able to take the LPN examination, if this language was changed to include graduation from either a LPN program or a Professional Nursing program. He noted 10% of graduate nurses fail the exam for licensure for an RN, and this would permit these individuals to avail themselves of the LPN licensure status while preparing to retake the RN exam for licensure. This would give the nurses an alternative to continue to deliver health care services in a manner in which they have been trained.

Georgenia Bowling, current President of Kansas Association of Nursing Students (Attachment No. 12), stated support for the amendment proposed by the Kansas Nurses Association to **HB 2603**. She detailed the procedure for taking the exam for licensure after graduation, noting there would be 44 days lost in being able to practice nursing. She noted for many, waiting for the CAT exam would be an economic hardship, the loss of income for 6-8 weeks could range from \$2700-\$3600. She requested consideration to support the privilege of new graduates to be allowed to work while awaiting the exam results.

It was noted, a fiscal note on **HB 2603** is recorded as (Attachment No. 13).

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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 423-S
Statehouse, at 1:30 p.m. on February 14, 1994.

Numerous questions were posed, i.e. with only a small percentage of graduates practicing before test results are available, why does the Board wish to change the law? The Board feels the number of graduates practicing before licensure will increase dramatically once the testing is done via computer. It was noted the law doesn't say these graduates from nurses training cannot practice as a GN, or be paid as a GN. It was noted that Missouri does not follow unlicensed practice as does the state of Kansas. Missouri is more lenient.

Mr. Furse inquired of Ms. Johnson, if a person is licensed in another state or foreign country, and the Board finds those licensure standards are the same as those of Kansas, they could practice in and be licensed in Kansas without examination? Ms. Johnson said, under current law, yes. Ms. Johnson noted, it is the National examination that is recognized, so if a student or practicing nurse comes into the state and they have taken and passed the national examination, that is what is recognized by the Board, not whether or not the exam had been taken in Kansas. There are about 500 RNs, and 300 LPNs a year that apply for licensure, with 40 from foreign countries. She noted that all states now offer the national examination; the computerized examination takes about 5 hours versus the old one took 2 days. If the exam is failed, an applicant must wait 90 days before being allowed to retake the exam.

Other conferees were asked questions regarding the orientation programs conducted in different hospitals. Mr. Bell stated while a student is going through orientation programs in hospitals, they are not allowed to practice as a graduate RN until the exam results are in, so they cannot perform all the tasks they would view during that period. The employer is responsible for any act performed by the employees, (if it is within the scope of practice). They are also responsible if they hire people without a license. It was suggested a place to indicate the future employer of the graduate might be put on the exam form and confirmation of the test results could be given that employer. It was determined this would be difficult to reply to employers if the exam had been failed by the graduate. It was noted after April 1, 1994, an applicant will have the opportunity to take the examination up to 4 times per year if they fail it initially.

HEARING CLOSED ON HB 2603.

Chair announced the Sub-Committee on **SB 120** will meet in this room immediately following adjournment of the regular Committee meeting.

Chair adjourned the meeting at 2:53 p.m.

The next meeting is scheduled for February 15, 1994.

VISITOR REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

DATE Feb. 10th, 94

NAME	ORGANIZATION	ADDRESS
Margaret Bonsted	Student Nurse - Hutchinson Community College	
Marguerite Bowling	Student Nurse - Washburn Kansas Assoc. of Nursing Students	1905 McFarland Junction City, Mo.
Susan Fry	Ks Organization of Nurse Ex.	Topeka, Ks.
Karen Gilpin	KSNA	Topeka
Patsy Johnson	Bd of Nursing	Topeka
Genevieve Taylor	Bd of Nursing	Topeka
Roberta Kellogg	Bd of Nursing	Topeka
Carla Brown	KSNA	Topeka
Terri Roberts	KSNA	Topeka
Jay Kroll	KOMH	Topeka
Kay Hale	KCHA	Topeka
Arvid Rieton	KAOH	Topeka
KEITH R LANDIS	CHRISTIAN SCIENCE COMM. ON PUBLICATION FOR KS	TOPEKA
Margaret Zeller	SRS/Dms	Topeka
Vicki Allen	KHCA	Topeka
Bruce Keiser		Colby
Fred Gattlin	Rep 120	Atwood
LINDA M. GILL	KANA	TOPEKA
GARY Robbins	Ks Opt Assn	Topeka
Kinderknecht	BSRB	Topeka
MaryAnn Gabel	BSEB	651-SLSOB
Qeta L. Wolf	SRS	Topeka
Chip Wheelen	Ks Medical Soc.	Topeka

HOUSE BILL NO. _____

AN ACT concerning the state board of healing arts; confidentiality of complaints and reports relating thereto; amending K.S.A. 65-2898a and repealing the existing section.

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

Section 1. K.S.A. 65-2898a is hereby amended to read as follows: 65-2898a. (a) Any complaint or report, record or other information relating to a complaint which is received, obtained or maintained by the board shall be confidential and shall not be disclosed by the board or its employees in a manner which identifies or enables identification of the person who is the subject or source of the information except the information may be disclosed:

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

(2) to a hospital committee which is authorized to grant, limit or deny hospital privileges, if any disciplinary action authorized by K.S.A. 65-2836 and amendments thereto has at any time been taken against the licensee or if the board has at any time denied a license to the person;

(3) to the person who is the subject of the information or to any person or entity when requested by the person who is the subject of the information, but the board may require disclosure in such a manner that will prevent identification of any other person who is the subject or source of the information; or

(4) to a state or federal licensing, regulatory or enforcement agency with jurisdiction over the subject of the information or to an agency with jurisdiction over acts or conduct similar to acts or conduct which would constitute grounds

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for action under this act. Any confidential complaint or report, record or other information disclosed by the board as authorized by this section shall not be redisclosed by the receiving agency except as otherwise authorized by law; or

(5) to the person who filed the complaint when requested by such person but the board may require disclosure in such a manner that will prevent identification of any person other than the subject of the complaint and the complainant, that will prevent the disclosure of information concerning impaired licensees which is required to be confidential under subsection (i) of K.S.A. 65-2836 and amendments thereto and that will prevent the disclosure of criminal history record information if required to be confidential under subsection (c) of K.S.A. 65-2839a and amendments thereto.

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

Sec. 2. K.S.A. 65-2898a 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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2-14-94
Attn #1-2
Jg272

_____ Bill No. _____

By _____

AN ACT relating to the definitions of adult care homes; nursing facilities; nursing facilities for mental health; intermediate care facilities for the mentally retarded; assisted living facility; residential care facility; home plus; boarding care home, amending K.S.A. 39-923 and repealing the existing section.

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

Section 7. K.S.A. 39-923 is hereby amended to read as follows: 39-923. (a) As used in this act:

(1) "Adult care home" means any nursing facility, nursing facility for mental health, ~~intermediate personal care home~~ care facility for the mentally retarded, ~~one to five bed adult care home and any~~ assisted living facility, residential health care facility, home plus, boarding care home, and adult day care facility, all of which classifications of adult care homes are required to be licensed by the secretary of health and environment. ~~Adult care home does not mean adult family home.~~

(2) "Nursing facility" means any place or facility operating ~~for not less than 24 hours a day, seven days a week, in any week and~~ caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage

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~~and who, by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves, and for whom reception, accommodation, board and skilled nursing care and treatment is provided, and which place or facility is staffed to provide 24 hours a day licensed nursing personnel plus additional staff, and is maintained and equipped primarily for the accommodation of individuals who are not acutely ill and are not in need of hospital care but who require skilled nursing care.~~
due to functional impairments, need skilled nursing care to compensate for activities of daily living limitations.

(3) ~~"Intermediate personal care home" means any place or facility operating for not less than 24 hours in any week and caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board, personal care and treatment or simple nursing care is provided, and which place or facility is staffed, maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care, nursing facility care or moderate nursing care but who require domiciliary care and simple nursing care.~~

(4) ~~"One to five bed adult care home" means any place or facility which place or facility may be a private residence and which place or facility is operating for not less than 24 hours in any week and caring for not more than five individuals not related within the third degree or relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board, personal care and treatment and skilled nursing care, supervised nursing care or simple nursing care is~~

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~~provided by the adult care home, and which place or facility is staffed, maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care but who require domiciliary care and skilled nursing care, supervised nursing care or simple nursing care provided by the adult care home. When the home's capabilities are questioned in writing the licensing agency shall determine according to its rules and regulations if any restriction will be placed on the care the home will give residents.~~

(3) "Nursing facility for mental health" means any place or facility operating 24 hours a day, seven days a week caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need special mental health services to compensate for activities of daily living limitations.

(4) "Intermediate care facility for the mentally retarded" means any place or facility operating 24 hours a day, seven days a week caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments caused by developmental disabilities need services to compensate for activities of daily living limitations.

(5) "Assisted living facility" means any place or facility caring for three or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, due to functional impairments, need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services available 24 hours a day, seven days a week for the support of resident independence.

(6) "Residential health care facility" means any place or facility caring for six or more individuals not related within the third degree or relationship to the administrator, operator or owner by blood or marriage and who, due to functional impairments, need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes individual living units and provides or coordinates a range of services available on a 24 hour, seven day a week basis for the support of resident independence.

(7) "Home plus" means any residence or facility caring for not more than five individuals not related within the third degree of relationship to the operator or owner or blood or marriage unless the resident in need of care is approved for placement by the secretary of the department of social and rehabilitation services, and who, due to functional impairment, needs personal care and may need supervised nursing care to compensate for activities of daily living limitations. The level of care provided residents shall be determined by preparation of the operator and rules and regulations developed by the department of health and environment.

(5)(8) "Boarding care home" means any place or facility operating for not less than 24 hours in any week and a day, seven days a week, caring for three or more individuals for not more than ten individuals not related within the third degree or relationship to the administrator operator or owner by blood or marriage and who, by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board and supervision is provided and which place or facility is staffed, maintained and equipped primarily to provided shelter to residents who require some supervision, but who due to functional impairment, need

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supervision of activities of daily living but who are ambulatory and essentially capable of managing their own care and affairs.

(9) "Adult day care" means any place or facility operating less than 24 hours a day caring for individuals not related within the third degree or relationship to the operator or owner by blood or marriage and who, due to functional impairment need supervision or assistance with activities of daily living.

(6)(10) "Place or facility" means a building or any one or more complete floors of a building, or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, and the term "place or facility" may include multiple buildings.

(7)(11) "Skilled nursing care" means services commonly performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel, for individuals requiring 24-hour-a-day care by licensed nursing personnel including: Acts of observation, care and counsel of the ill, injured or infirm; the Skilled nursing includes administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions requiring which require substantial specialized nursing judgment and skill based on the knowledge and application of scientific principles.

(8)(12) "Supervised nursing care" means services commonly performed by or under the immediate onsite supervision of a licensed nurse of licensed nursing personnel at least eight hours a day for at least five days a week including: Acts of observation, care and counsel of the ill, injured or infirm; the or through delegation by a licensed nurse, including but not limited to, administration of medications and treatments as prescribed by a licensed

physician or dentist; and ~~other selected functions requiring specialized judgment and certain skills based on the knowledge of scientific principles.~~ assistance of residents with the performance of activities of daily living.

~~(9) "Simple nursing care" means selected acts in the care of the ill, injured or infirm requiring certain knowledge and specialized skills but not requiring the substantial specialized skills, judgment and knowledge of licensed nursing personnel.~~

~~(10)~~(13) "Resident" means all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.

~~(11)~~(14) "Person" means any individual, firm, partnership, corporation, company, association or joint stock association, and the legal successor thereof.

~~(12)~~(15) "Operate an adult care home" means to own, lease, establish, maintain, conduct the affairs of or manage an adult care home, except that for the purposes of this definition the word "own" and the word "lease" shall not include hospital districts, cities and counties which hold title to an adult care home purchased or constructed through the sale of bonds.

~~(13)~~(16) "Licensing agency" means the secretary of health and environment.

~~(14) "Skilled nursing home" means a nursing facility.~~

~~(15) "Intermediate nursing care home" means a nursing facility.~~

(17) "Apartment" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, a kitchen, sleeping, living and storage area and a lockable door.

(18) "Individual living unit" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, sleeping, living and storage area, and a lockable door.

(19) "Operator" means an individual who operates an assisted living facility or residential health care facility with fewer than 45 beds, a home plus or adult day care facility

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Attn #2-6
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and has completed a course approved by the secretary of health and environment on principles of assisted living.

(20) "Activities of daily living" mean those personal, functional activities required by an individual for continued well-being, including but not limited to eating/nutrition, dressing, personal hygiene, mobility, toileting and other activities such as meal preparation, shopping and management of personal finances.

(21) "Personal care" means care provided by staff to assist an individual with, or to perform activities of daily living.

(22) "Functional impairment" means an individual has experienced a decline in physical, mental and psychosocial well-being and as a result, is unable to compensate for the effects of the decline.

(b) The term "adult care home" shall not include institutions operated by federal or state governments, hospitals, or institutions for the treatment and care of psychiatric patients, boarding homes for children under the age of 16 years, day nurseries, child caring institutions, maternity homes, hotels or offices of physicians.

(c) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology and the agency may further amend, substitute, change and in a manner consistent with the definitions established in the section, further define and identify the specific acts and services which shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.

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attm #2-7
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PROPOSED DRAFT LEGISLATION
House Bill _____

Be it enacted by the Kansas Legislature:

Section 1. Free standing psychiatric hospitals licensed by the Kansas Department of Social and Rehabilitation Services pursuant to K.S.A. 75-3307(b) shall be eligible for Title XIX reimbursement so long as they:

1) have entered into a cooperative agreement or contract with a general hospital in the same geographic area which general hospital is currently eligible for Title XIX reimbursement and which general hospital is closing or has closed a psychiatric or other ward which duplicated services being provided at the contracting hospital;

2) agree to be bound by all of the terms and conditions for reimbursement including restrictions and requirements as to prior authorization, screening, patient co-pays and rates of reimbursement;

3) are accredited as a hospital by the Joint Commission for the Accreditation of Health Care Organizations; and

4) are approved as a residency teaching location for the University of Kansas medical center.

Section 2. This Act shall take effect and be enforced from and after its publication in the Kansas Register.

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2-14-94
Attn. #3

STATE OF KANSAS

FRED GATLIN
REPRESENTATIVE, 120TH DISTRICT
CHEYENNE, RAWLINS, DECATUR,
NORTON, WESTERN PHILLIPS
610 MAIN
ATWOOD, KANSAS 67730



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: AGRICULTURE
APPROPRIATIONS
ENERGY AND NATURAL RESOURCES
JOINT COMMITTEE ON HEALTH
CARE DECISIONS FOR 90'S

TO : House Public Health and Welfare Committee

FROM: Representative Fred Gatlin *F. G.*

SUBJ: HB-2603

DATE: February 14, 1994

Chairman Flower and Committee Members - it is my pleasure to testify on HB-2603. My testimony is limited to one portion of the bill. I do not have any expertise to add to the discussion of the bill as a whole, merely to the portion that deals with licensure of practical nurses. I have passed out a balloon showing the amendment I am requesting.

Approximately three years ago I was contacted by a then constituent who was a registered nurse trained in the Philippines. This lady I believe had not taken the test to be a registered nurse. My memory is that she was concerned because of the language barrier and concerned about training standards, whether she was prepared without some review to pass the R.N. exam. She did, however, wish to work and wanted to take the licensed practical nurses exam. Upon checking with the State Board of

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Attn #4

Nursing she found out that she did not qualify because she had not taken class work in practical nursing.

My amendment simply allows a graduate registered nurse to use that registered nurse education to qualify to take the LPN exam. Perhaps the department has a different perspective than I, but this seems like a "no brainer." If an applicant for licensed practical nurse has completed a registered nursing curriculum, that curriculum should suffice as an educational requirement for the LPN. This amendment would merely allow the law to clearly state that policy.

I stand for questions. Thank you for your time.

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Action # 4-2
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*Filed
2-14-94
Attm #5*

state if the applicant has not been engaged in practice of nursing for five years preceeding application. The 180-day temporary permit may be renewed by the board for one additional period not to exceed 180 days.

Sec. 2. K.S.A. 1993 Supp. 65-1116 is hereby amended to read as follows: 65-1116. (a) *Qualification*. An applicant for a license to practice as a licensed practical nurse shall file with the board a written application for a license and submit to the board satisfactory proof that the applicant: (1) Has graduated from a high school accredited by the appropriate legal accrediting agency or has obtained the equivalent of a high school education, as determined by the state department of education; (2) has successfully completed the prescribed curriculum in an accredited school of practical nursing and holds evidence of graduation from the ~~an accredited school of practical nursing in the United States or its territories~~ or has successfully completed the prescribed curriculum in an accredited ~~from a school of practical nursing located outside this~~ state which maintains standards at least equal to schools of practical nursing which are accredited by the board and holds evidence of graduation from the school in a foreign country which is approved by the board as defined in rules and regulations; and (3) has obtained other qualifications not in conflict with this act as the board may prescribe by rule and regulation.

OR PROFESSIONAL NURSING

OR PROFESSIONAL NURSING

(b) *If the board finds in evaluating any applicant that such applicant is deficient in qualification or in the quality of such applicant's educational experience, the board may require such applicant to fulfill such remedial or other requirements as the board may prescribe.*

(c) *License*. (1) *By Examination*. The applicant shall be required to pass an examination in such subjects as the board may prescribe. Each examination may be supplemented by an oral or practical examination. Upon successfully passing such examinations, the board shall issue to the applicant a license to practice as a licensed practical nurse. (2) *Without examination*. The board may issue a license to practice as a licensed practical nurse without examination to any applicant who has been duly licensed or registered by examination as a licensed practical nurse or a person entitled to perform similar services under a different title under the laws of any other state, territory or foreign country if, in the opinion of the board, the applicant meets the requirements for licensed practical nurses in this state. *Refresher course*. Notwithstanding the provisions of subsections (a) and (b), an applicant for a license to practice as a licensed practical nurse who has not

Kansas State Board of Nursing

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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
Kansas State Board of Nursing

DATE: February 10, 1994

RE: HB 2603

In HB 2603 the Board of Nursing proposes a change to three statutes addressing three topics. The Board has prepared language to clarify licensure qualifications and refresher courses. The third topic is a modification in exemptions for unlicensed practice.

Licensure Qualifications

In K.S.A. 65-1115 and 65-1116, the changes proposed are identical for the registered professional nurse (R.N.) and licensed practical nurse (L.P.N.). The major change in these two statutes is to clarify what qualifications must be met before an applicant is eligible for licensure. Last summer over 40 nurses from several different countries applied for R.N. licensure in Kansas. A different interpretation by the Board's Assistant Attorney General on paragraph (a) and (c) left the Board in the position of having to assess foreign schools of nursing based on Kansas rules and regulations (Pg 1 and 2, lines 21-34, 40-43, 1-9). It was like judging apples and oranges so not one foreign school qualified. Because of this, none of the foreign educated nurses could be

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licensed. Because several facilities had brought foreign nurses to Kansas due to staffing shortages, this became a very critical situation for them. Also, the nurses were in a position of possibly having to return home.

The Board has followed the same procedure in licensing foreign graduates for many years. First, the foreign graduate had to be certified by the Commission on Graduates of Foreign Nursing Schools (CGFNS). This included a credentials review, followed by a test of nursing and English language skills. Once the foreign graduate had passed CGFNS, the applicant was eligible to take the national licensure examination which establishes minimum competency. If the applicant passed the examination, the Board licensed the foreign educated nurse. The Board has revised Section 1 (a) and (c) to continue this licensure process.

New (b) has been added to provide an avenue if an applicant is deficient in some area of education (Pg 1, lines 35-39). The Board will work with the applicant in establishing a plan for correcting the deficiency. After this is done, the applicant will be eligible to take the licensure examination. This allows the Board flexibility in dealing with individual applicants.

The other change in (a) is deleting (3) (Page 1, lines 31-32). The Board can deny an applicant a license under K.S.A. 65-1120. (Attachment A) One cause for discipline is conviction of a felony. Since (a)(3) is a duplication, the Board asks it be deleted.

Refresher Course

New (a)(2) clarifies the requirement of a refresher course if a nurse has been unlicensed for more than five years, (Pg 2, lines 9-14). In (d), the temporary permit which has been allowed for a

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person completing the clinical portion of a refresher course has been deleted (Pg 2 & 3, lines 38-43 and 1-4). A new exemption (o) has been added to K.S.A. 65-1124 to allow for the clinical portion of the refresher course (Pg 6, lines 3-4). There was a question that with the temporary permit the applicant could be employed as a nurse during the refresher course. Since the person is regaining nursing skills, the intent is that the permit be used only for the clinical portion of the refresher course.

In section (2), K.S.A. 65-1116, the same provisions are made for the licensed practical nurse (Pg 3 & 4).

Exemption for Unlicensed Practice

The last change in this bill is in K.S.A. 65-1124 (e) (Pg 4 & 5, lines 41-43, 1-2). The Board requests an amendment to paragraph (e). The Board just received an Attorney General's opinion which notes that to practice as an advanced registered nurse practitioner, the nurse must have a certificate of qualification as an advanced registered nurse practitioner, K.S.A. 65-1114 (b) (1) and (2). (Attachment B) This proposed amendment exempts the student who is in an advanced registered nurse practitioner program. (Attachment C)

The Board is proposing to remove the exemption that allows graduate nurses to practice as licensed nurses until the results of the first licensure examination. The reason the Board has considered such a change is due to the computer adaptive testing (CAT) which will be implemented after April 1. All professional and practical national licensure examinations will be administered per computer. Instead of one date when the examination is administered to all candidates, each candidate will schedule an appointment to take the exam. The candidate will be guaranteed an appointment within 30

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days of telephoning the chosen test center.

Because a candidate can test immediately after finishing school, the Board expects that everyone can test within 30-45 days. Rather than six to eight weeks as it is now, results will be back to the Board office in 24-48 hours. If the pass rate is as usual, 90% of all candidates could be licensed in four weeks. Because it takes so little time to get a license, the Board believes an exemption or temporary permit is not needed. Neither the graduate nurse nor employer should be impacted greatly by deleting this exemption.

The Board has considered the various sides to this issue. The graduate nurse often wishes to go to work right away, usually because of financial reasons. Because of staffing needs, employers also wish to hire and start new graduates right away. Removing this exemption does not preclude this. There is no law against an employer hiring a graduate nurse and that graduate starting orientation. There is no law against the employer paying the graduate for that orientation time as is the usual practice.

In orientation, there is often several days spent in a classroom setting. Orientation can be planned to phase in more complex procedures on the nursing unit over time. Some tasks can be delegated under K.S.A. 65-1124 (n) (Pg 5 and 6, lines 41-43, 1-2). During this time the graduate would be working under the supervision of a licensed nurse. Medication administration, intravenous therapy, and independent assessment procedures would have to be restricted until the graduate has passed the licensure examination. In some cases graduate professional nurses are already licensed as practical nurses (L.P.N.) so even the above procedures would be permitted. About half of graduate nurses from associate degree programs are L.P.N.'s. In some settings, the graduate would need to be certified as an aide or medication aide

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if working with patients. It would seem reasonable that the graduate professional or practical nurse because of education could become certified as an aide and medication aide without examination.

By the time a four to six week orientation program has been completed, a graduate nurse could take the licensure examination and be licensed. Some employers believe that graduates may take jobs in other states that have temporary permits just because practice is restricted for a short time in Kansas. A structured orientation program which gradually expands what the graduate may do should help decrease the fears the graduate always has. If there is competition in recruiting, the employer should be able to use a good orientation plan as a selling point. What is more, the graduate will probably be more satisfied if given time to be well oriented and patients will be safer.

Since testing can be achieved in a very short time, employers may now be able to wait and hire only new graduates who have passed the licensure examination. One study showed that it took about 30 working days at a cost of \$4,892 to orient a new graduate. If that person fails the licensure examination, the employer has spent a great deal of time and money in anticipation of a productive nurse. For the employer there is no one to fill that open nursing position and will not be until someone else is hired and oriented, at least another six weeks.

Employers are concerned that graduate nurses may leave Kansas to work in states that do offer temporary permits. Many states are not allowing permits or exemptions, but as of this writing Missouri and Colorado will be issuing permits. Kansas City is one area where there is a great deal of mobility of nurses. A study of endorsements and reinstatements showed a large number of nurses in the Kansas City area getting licenses in Kansas. (Attachment D)

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Nearly one-half of those endorsing into Kansas over a three month period lived in the Kansas City area. Of the total nurses reinstating licenses for that three month period, 34% of them were living in Kansas City. During that same period only 17% had licensure in Kansas verified to Missouri. There was no data to determine if these nurses lived in Kansas City or not. This information indicates that nurses have dual licensure and probably are changing positions. The Board does not believe this will be affected by the change in law that is being proposed. Actually there appears to be more nurses coming into Kansas (162) verses those possibly leaving (53).

By not allowing nursing practice by exemption until the results of the first exam or by issuing a temporary permit, the Board hopes to prevent unlicensed practice. The Board does not distrust nurses as some claim, but the change in testing will create some confusion. Because candidates will test at different times, there is no one set time when all candidates get their test results back. The Board anticipates that employers are going to have a more difficult time tracking licensure. Also, graduates do not always understand what is expected in the new work situation.

Each year there has been six or seven incidents of unlicensed practice after graduates fail the exam. Sometimes the unlicensed practice is intentional. Many new graduates have financial concerns. If a graduate takes the exam and fails, there may be a temptation to hide the results and wait to reschedule the test which can taken in 90 days. If allowed an exemption or temporary permit, the graduate may feel there is some protection. If not caught this could mean 90 days of a much higher salary for the graduate, or even in some cases keeping a job.

More often when a new graduate has unlicensed practice, the individual just does not understand the Nurse Practice Act.

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Some employers do not know the law and even allow the graduate who has failed the examination to continue working as a nurse. When a new graduate gets into difficulty with the Board, he or she is usually extremely upset over the situation. In addition, the person is affected monetarily since the Board charges a fine for unlicensed practice. The new career that should be bright and exciting is now slightly tarnished.

A frequent question usually asked around graduation time is if a new graduate can be in charge. This is asked about practical as well as professional nurses. New graduates are often assigned evening and night shifts without much supervision. Employers do not know if those graduates are competent nurses since the examination has not been taken. By not allowing new graduates to practice at the same level as a licensed nurse, then patients will be protected from those who need that additional experience under supervised conditions. The person needing supervision is not yet the supervisor.

Another factor for the Board is the fiscal note. It is anticipated that some additional funds for investigative staff may be needed if unlicensed practice would grow. Last calendar year there were 68 cases of unlicensed practice.

There will be a suggestion from others who will testify to allow a temporary permit for the graduate nurse to work until results of the first examination. The new graduate has no money and cannot work until licensed. This is a financial hardship. There is not enough nurses to take care of patients because the employer cannot employ the new graduate until the licensure examination is taken and passed. New graduates will leave Kansas and take jobs in border states where they can get temporary permits and go to work right away. These issues have been addressed.

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Some of the uneasiness is due to the unknown, which is the new testing procedure. Will graduates be able to test in a timely manner and go to work? There are many positive aspects of CAT, for the graduate, the employer, and the Board. Once the change is made, employers will adjust time lines for hiring and orientation. Graduates will be prepared to take the examination based on their own needs. Some may wait while others schedule the test immediately. Offering progressive orientation programs, not putting unlicensed graduates in charge nurse positions, and preventing unlicensed nursing practice are positive outcomes of removing the exemption for graduate nurses in K.S.A. 65-1124. The Board believes this is a progressive statute change.

Summary

HB 2603 brings a three by three proposal, three concepts in three nursing statutes. The Board will be able to license foreign educated nurses. Nurses out of practice can get an update before going back to work. An exemption for advanced registered nurse practitioners students will be allowed with the exemption for graduate practice being removed.

The Board asks you to pass HB 2603 with the suggested amendment.

Thank you.

I would be glad to answer questions.

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offerings and annual reports shall be made in writing on forms submitted by the board and shall be submitted to the board together with the application fee fixed by the board.

(f) Criteria for evaluating out-of-state schools. For the purpose of determining whether an applicant for licensure who is a graduate of a school of professional or practical nursing located outside this state meets the requirements of item (2) of subsection (a) of K.S.A. 65-1115 and amendments thereto or the requirements of item (2) of subsection (a) of K.S.A. 65-1116 and amendments thereto, as appropriate, the board by rules and regulations shall establish criteria for determining whether a particular school of professional nursing located outside this state maintains standards which are at least equal to schools of professional nursing which are accredited by the board and whether a particular school of practical nursing located outside this state maintains standards which are at least equal to schools of practical nursing which are accredited by the board. The board may send a questionnaire developed by the board to any school of professional or practical nursing located outside this state for which the board does not have sufficient information to determine whether the school meets the standards established under this subsection (f). The questionnaire providing the necessary information shall be completed and returned to the board in order for the school to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about schools. In entering such contracts the authority to approve schools shall remain solely with the board.

History: L. 1949, ch. 331, §8; L. 1963, ch. 314, §5; L. 1973, ch. 249, §2; L. 1978, ch. 240, § 5; L. 1980, ch. 188, § 2; L. 1980, ch. 186, § 2; L. 1981, ch. 244, § 2; L. 1982, ch. 261, § 3; L. 1983, ch. 207, § 3; L. 1983, ch. 206, § 9; L. 1983, ch. 206, § 14; L. 1988, ch. 243, § 2; L. 1990, ch. 221, § 4; July 1.

65-1120. Denial, revocation, limitation or suspension of license or certification of qualification; costs; professional incompetency defined. (a) Grounds for disciplinary actions. The board may deny, revoke, limit or suspend any license, certificate of qualification or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced registered nurse practitioner or as a registered nurse anesthetist that is issued by the board or applied for under this act or may publicly or privately censure a licensee or holder of a certificate of qualification or authorization, if the applicant, licensee or holder of a certificate of qualification or authorization is found after hearing:

- (1) To be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing;
- (2) to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense, if the board determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;
- (3) to have committed an act of professional incompetency as defined in subsection (e);
- (4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol;
- (5) to be a person who has been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not be restored to capacity under the act;
- (6) to be guilty of unprofessional conduct as defined by rules and regulations of the board;
- (7) to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act, including K.S.A. 65-1114 and 65-1122 and amendments thereto; or
- (8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United State or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph (8).

(b) Proceedings. Upon filing of a sworn complaint with the board charging a person with having been guilty of any of the unlawful practices specified in subsection (a), two or more members of the board shall investigate such charges, or the board may designate and authorize an employee or employees of the board to conduct such investigation. After investigation, the board may institute charges. In the event such investigation, in the opinion

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of the board, shall reveal reasonable grounds for believing the applicant or licensee is guilty of the charges, the board shall fix a time and place for proceedings thereon, which shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

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

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

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

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

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

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

History: L. 1949, ch. 331, § 9; L. 1963, ch. 314, § 6; L. 1972, ch. 231, § 10; L. 1975, ch. 316, § 7; L. 1978, ch. 240, § 6; L. 1981, ch. 245, § 1; L. 1983, ch. 206, § 10; L. 1985, ch. 88, § 6; L. 1986 ch. 233, § 4; L. 1990, ch. 221, § 5; L. 1993, ch. 194, § 1, July 1.

65-1121a. Judicial review of board's actions. (a). Any agency action of the board of nursing pursuant to the Kansas nurse practice act is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

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

History: L. 1986, ch. 318, § 145; July 1.

65-1122. Misdemeanors; penalties. It shall be a misdemeanor for any person, firm corporation or association to:

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

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

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

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

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

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

or

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General Provisions

65-1113. Definitions. When used in this act and the act of which this section is amendatory:

- (a) "Board" means the board of nursing.
- (b) "Diagnosis" in the context of nursing practice means that identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing regimen and shall be construed as distinct from a medical diagnosis.
- (c) "Treatment" means the selection and performance of those therapeutic measures essential to effective execution and management of the nursing regimen, and any prescribed medical regimen.
- (d) Practice of Nursing. (1) The practice of professional nursing as performed by a registered professional nurse for compensation or gratuitously, except as permitted by K.S.A. 65-1124 and amendments thereto, means the process in which substantial specialized knowledge derived from the biological, physical, and behavioral sciences is applied to: the care, diagnosis, treatment, counsel and health teaching of persons who are experiencing changes in the normal health processes or who require assistance in the maintenance of health or the prevention or management of illness, injury or infirmity; administration, supervision or teaching of the process as defined in this section; and the execution of the medical regimen as prescribed by a person licensed to practice medicine and surgery or a person licensed to practice dentistry. (2) The practice of nursing as a licensed practical nurse means the performance for compensation or gratuitously, except as permitted by K.S.A. 65-1124 and any amendments thereto, of tasks and responsibilities defined in part (1) of this subsection (d) which tasks and responsibilities are based on acceptable educational preparation within the framework of supportive and restorative care under the direction of a registered professional nurse, a person licensed to practice medicine and surgery or a person licensed to practice dentistry.
- (e) A "professional nurse" means a person who is licensed to practice professional nursing as defined in part (1) of subsection (d) of this section.
- (f) A "practical nurse" means a person who is licensed to practice practical nursing as defined in part (2) of subsection (d) of this section.
- (g) "Advanced registered nurse practitioner" or "ARNP" means a professional nurse who holds a certificate of qualification from the board to function as a professional nurse in an expanded role, and this expanded role shall be defined by rules and regulations adopted by the board in accordance with K.S.A. 65-1130.

History: L. 1949, ch. 331, § 1; L. 1963, ch. 314, § 1; L. 1975 ch. 316, § 1; 1978, ch. 240, § 1; L. 1980, ch. 186, § 1, L. 1983, ch. 206, § 6; April 28.

65-1114. Unlawful acts. (a) It shall be unlawful for any person:

- (1) To practice or to offer to practice professional nursing in this state; or
 - (2) to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is a registered professional nurse; or
 - (3) to practice or offer to practice practical nursing in this state;
 - (4) to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is a licensed practical nurse, unless such person has been duly licensed under the provisions of this act.
- (b) It shall be unlawful for any person:
- (1) To practice or offer to practice as an advanced registered nurse practitioner in this state; or
 - (2) to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is an advanced registered nurse practitioner, unless such person has been duly issued a certificate of qualification as an advanced registered nurse practitioner under the Kansas nurse practice act.

History: L. 1949, ch. 331, § 3, L. 1975, ch. 316, § 2; L. 1978, ch. 240; § 3; L. 1983, ch. 206, § 7; April 28.

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or programs of advanced registered
professional nursing approved by the
board

Attachment C

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Licensure Kansas - Missouri

Registered Nurses	Study period July - September, 1993			
	Total	Living K.C. Area	Original State Missouri	From Missouri
Endorsing from another state	246	104	55	22%
			Verified to Missouri	? To Missouri
Verification to another state	302	-	53	17%
			Past Work History Missouri	From Missouri
Reinstatement of Kansas license	168	58	58	34%

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FOR MORE INFORMATION CONTACT:
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Executive Director
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Topeka, Kansas 66603-3731
913-233-8638
Date: February 10, 1994

**H.B. 2603 Nurse Practice Act
Graduate Nurse Practice Issue**

Representative Flower and members of the House Public Health and Welfare Committee, my name is Terri Roberts J.D., R.N. and I am the Executive Director of the Kansas State Nurses Association.

The Kansas State Nurses Association supports H.B. 2603 as it relates to addressing the review and processing of foreign applicants for licensure.

We also support the accommodation made for nurses taking refresher courses. This exception appears on page 6, line 3 with the addition of new (o) which reads:

"the practice of nursing by applicants in the supervised clinical portion of a refresher course."

The Kansas State Nurses Association has studied the proposal submitted by the Board of Nursing in this bill that would prohibit Graduate Nurses and Graduate Practical Nurses from practicing prior to receiving results of their first licensure exam.

After careful consideration of the positive and negative aspects of this proposal we are asking for your consideration of an amendment to H.B. 2603. This amendment would permit GN, GPN practice for 120 days following graduation, or until receipt of the first licensing exam, whichever occurs first. A balloon of the amendment is attached to my testimony and Karen Gilpin from Iola will address the committee with supporting statements.

Thank you.

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H.B. 2603

KSNA RECOMMENDATIONS FOR AMENDMENT

1 been licensed to practice practical nursing for five years preceding
 2 application shall be required to successfully complete a refresher
 3 course as defined by the board. (3) *Renewal license.* A licensed
 4 practical nurse licensed under this act shall be eligible for renewal
 5 licenses upon compliance with K.S.A. 65-1117 and amendments
 6 thereto. (4) *Repeated examination failure.* Persons who are unsuc-
 7 cessful in passing the licensure examination after four failures shall
 8 petition the board for permission prior to subsequent attempts. The
 9 board may require the applicant to submit and complete a plan of
 10 study prior to taking the licensure examination for the fifth time or
 11 any subsequent attempt.

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

18 (d) *Temporary permit.* The board may issue a temporary permit
 19 to practice nursing as a licensed practical nurse for a period not to
 20 exceed 90 days. The 90-day temporary permit may be renewed for
 21 an additional 30 days not to exceed a combined total of 120 days.
 22 The board may issue a temporary permit to practice nursing
 23 as a licensed practical nurse for a period not to exceed 180
 24 days to an applicant for a license as a licensed practical nurse
 25 who is enrolled in a refresher course required by the board
 26 for reinstatement of a license which has lapsed for more than
 27 five years or for licensure in this state from another state if the
 28 applicant has not been engaged in practice of nursing for five
 29 years preceding application. The 180-day temporary permit may
 30 be renewed by the board for one additional period not to ex-
 31 ceed 180 days.

32 Sec. 3. K.S.A. 65-1124 is hereby amended to read as follows:
 33 65-1124. No provisions of this law shall be construed as prohibiting:

34 (a) Gratuitous nursing by friends or members of the family;

35 (b) the incidental care of the sick by domestic servants or persons
 36 primarily employed as housekeepers;

37 (c) caring for the sick in accordance with tenets and practices of
 38 any church or religious denomination which teaches reliance upon
 39 spiritual means through prayer for healing;

40 (d) nursing assistance in the case of an emergency;

41 (e) the practice of nursing by students enrolled in accredited
 42 schools of professional or practical nursing ~~nor nursing by graduates~~
 43 of such schools or courses pending the results of the first li-

retain original language and add 120 day provision to read:
 "nor nursing by graduates
 of such schools or courses pending the results of the first
 licensure examination scheduled following such graduation,
 but in no case to exceed 120 days, whichever comes first.

For More Information Contact:
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Kansas State Nurses Association
700 SW Jackson, Suite 601
Topeka, Kansas 66603-3731
913-233-8638
Date: February ????

**H.B. 2603 Nurse Practice Act
Graduate Nurse Practice Issue**

Chairperson Flowers and members of the House Public Health and Welfare Committee, my name is Karen Gilpin M.N., R.N. I am currently a nurse educator at Neosho County Community College's bi-level ADN program where I teach advanced medical/surgical nursing on three campuses in Ottawa, Chanute, and Independence, Kansas. I have been in nursing education for 5 years and prior to that was the Director of Nursing for 10 years at Allen County Hospital in Iola. I am a past president of the Kansas Organization for Nurse Executives and served for seven years on their Board.

I currently serve on the Kansas State Nurses Association Council on Education which is responsible for reviewing trends and recommending changes in nursing education on behalf of the professional organization.

In the clinical rotations that I supervise, students are observed and evaluated closely as they care for patients (clients) in a variety of acute and long term care settings. We have many clinical check-offs and competency exams that each student must pass before they can pass to the next level and graduate from nursing school.

Kansas State Nurses Association Constituent of The American Nurses Association

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PK/ell
2-14-94
Attn #8

The Kansas State Nurses Association has offered an amendment to H.B. 2603 that would provide an incentive to sign up for the CAT Exam, a 120 day time limit, but retain the ability of GN's and GPN's to practice pending the results of the first computer test they take.

The following is our rationale for the amendment:

*GNs and GPNs solidify their formal education during the time that they practice immediately following graduation. Not permitting them to practice immediately after graduation may result in lower passing rates and decreased confidence and competency depending on the span of time that they must wait to take the examination and get board results.

*GNs and GPNs understand the legal ramifications of practicing once they have been denied licensure for failing to pass the exam. Nurse executives also understand the significance of this and currently have procedures in place to monitor the licensure status of not only the GNs/GPNs who work at their institutions, but all of the LICENSED nurses on their staff.

*GNs and GPNs have provided nursing care to patients and have helped fill the shortage of RNs and LPNs in hospitals and nursing homes during the past 40 plus years during which the current "exceptions clause" was allowed. There exists no documentation that there has been a problem with the quality of health care services delivered during this time frame. Because we are changing the way we test new graduates and NOT the way we educate nursing students, we should see no change from what we have experienced in the practice setting.

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*Many nursing students struggle economically to complete their education. Most take GN or GPN positions immediately after graduation and depend on the higher rate of pay to help pay bills and living expenses and begin paying back educational loans.

*This amendment decreases potential recruitment of our graduates across state lines. Missouri and Colorado, are going to permit new graduates to practice nursing as GNs and GPNs. Outward migration of graduates for financial reasons is a real concern in border communities such as Kansas City, Pittsburg, and Liberal.

As a nurse educator and a representative of the nursing profession, I strongly encourage your support of the amendment to permit GNs/GPNs to practice during the time prior to the results of their first licensure exam.

Thank you for this opportunity to address you.

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Attn #8-3
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Shannon Bonesteel
1803 West Blanchard
South Hutchinson, KS 67505

February 10, 1994
HB 2603

Chairperson Flowers and members of the House Public Health and Welfare Committee. My name is Shannon Bonesteel, and I am a senior in the nursing program at the Hutchinson Community College. I was born and raised in Hutchinson, and I have been working at the Hutchinson Hospital as a Certified Nursing Assistant for over three years.

I began considering the nursing profession shortly after my Grandmother died in the spring of 1990. I had been touched by the nurses from the local Hospice that had been there for my family and I during that hard time. I decided right then that I wanted to touch people's lives in that special way, also.

Over the past two and a half years I have worked harder than I ever have in my life to get to where I am today, a few months away from being a graduate nurse. My fellow students and I have strived day after day to become competent, trustworthy, and caring professionals.

I plan to begin working at Hutchinson Hospital on the medical surgical floor. This hospital has helped graduate nurses like myself to begin advancing in their careers for many years. I am looking forward to perfecting my skills and daily tasks that I will perform for every one of my patients.

I am extremely concerned about this proposal that restricts graduate nurses from working. After two and a half years of hard work, I dread being held back from all of the knowledge and experience that I can gain in the weeks following my graduation. I have worked closely with many graduate nurses in the past few years, and I could see them growing into new people right before my eyes. They were finally out there applying all they had learned in their years of education. They were able to master their skills and knowledge they had worked so hard to achieve.

Now, it is finally my turn to become a graduate nurse, and begin on my dreams and ambitions. I know that I will continue putting forth every effort I have to maintain the integrity, wisdom, and caring spirit that I have worked so hard to achieve. For myself and the hundreds of other graduate nurses counting on this proposal to begin their journeys in life, please continue to let us work as part of the health care team.

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February 14, 1994

KANSAS ORGANIZATION OF NURSE EXECUTIVES

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

My name is Susan Fry. I am President-elect of the Kansas Organization of Nurse Executives. I am also a practicing Nurse Executive, holding the position of Chief Nurse at the University of Kansas Hospital. I am here to represent the position of the Kansas Organization of Nurse Executives regarding HB 2603. Our position is two-fold, i.e., one of support for selected changes, especially those affecting the qualifications of applicants, and secondly, one of strong opposition to the proposed removal of part of the exemption clause currently contained within the practice act, Section 3 KSA 65-1124 (e), which affects new graduate nurses.

In the first place, the proposed changes for the qualifications of applicants will, we believe, facilitate consistency and fairness in the review of credentials for the foreign nurse. The changes will address the concerns raised by members of our organization. We have been assured by the Kansas State Board of Nursing that they do not intend to create their own standards to review curricula from other countries. Rather, it is their intent to utilize recognized standards employed by a nationally recognized credentialing agency. We trust that they will follow-through on this intent.

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KANSAS ORGANIZATION OF NURSE EXECUTIVES
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The remaining issue I wish to speak to involves the removal of language from Section 3 KSA 65-1124 (e). Currently, this language permits new graduates to practice nursing until they receive notification of results of the licensing examination. Graduates utilize this time to take review courses in preparation for the exam, as well as to integrate the knowledge and skills they have been taught into actual clinical practice. After two, three, four, or more years of expensive education, new graduates, some of whom are young, eager professionals and many of whom are beginning a second career, managing the multiple responsibilities of home, children, and job, want to practice professionally and use the knowledge for which they have worked so hard. The removal of this language will delay entry into practice for our Kansas graduates. More importantly, because of the comments I noted previously, many, we believe, will not practice in Kansas, but instead select positions elsewhere, particularly in Missouri, which has endorsed the use of temporary permits to allow new graduates to practice for a limited time. The result, especially in the eastern part of the state, will be a reduction in professional nurses to meet the health care needs of Kansas citizens. This will become especially critical in times of nursing shortages.

The Kansas State Board of Nursing has identified concerns about unlicensed practice should the exemption be retained, given the change in the administration of the licensing exam. We members of KONE share the same professional concerns for the protection of the citizens of Kansas from unlicensed practitioners. We hold an additional responsibility as nurse executives. In this litigious environment we are also charged to protect our organizations from practices which increase corporate liability.

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KANSAS ORGANIZATION OF NURSE EXECUTIVES
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Therefore, we are not unaware of the risks of unlicensed practice. In fact, we take it so seriously that we take appropriate measures right now to protect our patients from unlicensed practitioners. Even now, currently, we do not know exactly when new graduates receive results of the licensing exam. It is true we currently know when the exam is scheduled and will not have that same schedule in the spring. However, results become available to individual graduates over several days. The possibility that an individual may report to duty despite failing the licensure examination exists right now.

We believe that as responsible nurse leaders, we will place institutional requirements on our new employees which will protect our patients. Specifically, a condition of employment would be the requirement that the new graduate present documentation of the scheduled date for the licensing exam. By doing this we would be able to employ qualified individuals educated in Kansas to meet the needs of Kansas, as well as to assure that our patients are served by appropriately licensed professionals. Please note that we are not asking to include such a system as that which I have just described into the statute. Rather, we strongly support an amendment to HB 2603 that would modify the language to read as follows:

Section 3 KSA 65-1125: "No provisions of this law shall be construed as prohibiting: (e)...the practice of nursing by students enrolled in accredited schools of professional or practical nursing nor nursing by graduates of such schools or courses for 120 days after graduation or until result of the first licensure exam are received, whichever comes first."

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KANSAS ORGANIZATION OF NURSE EXECUTIVES
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We feel very strongly about this issue and are most concerned about the impact this proposed change will have both on meeting the nursing and health care needs of our citizens, as well as on facilitating the employment of our new professionals. We ask you to reject this statute in its current form.

Thank you.

*PH/rel
2-14-94
Attn #10-4
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Memorandum

Donald A. Wilson
President

February 10, 1994

TO: House Public Health & Welfare Committee

FROM: Kansas Hospital Association

RE: HB 2603

The Kansas Hospital Association appreciates the opportunity to comment regarding the provisions of HB 2603, dealing with amendments to the Nurse Practice Act.

First, we support the thrust of Sections 1 and 2 which is to clarify the eligibility of foreign trained nurses to practice in Kansas. We are aware that in the past some Kansas hospitals have been faced with the potential loss of much needed nursing personnel because it was felt there was insufficient flexibility under current law to deal with the situation. HB 2603 clarifies the guidelines to be used and we think it will have a favorable impact.

We are not supportive, however, of language in Section 3 which prohibits the practice of nursing by graduates pending the results of their licensure exam. This is a change in policy that we think will have a negative impact on the delivery of health care in Kansas. The points in favor of continuing the current exemption in some form have been well established by the Kansas State Nurses' Association, and we support that organization's proposed amendment. From the hospital perspective, Section 3 of HB 2603 presents the potential of the loss of thousands of hours of nursing services across the state. In areas where nurses are in short supply, this type of policy obviously exacerbates existing problems.

We are also in support of amending HB 2603 to permit RNs who fail the licensure exam to take the LPN licensure exam. The current Nurse Practice Act specifically states that to be eligible to write the exam for licensure as a LPN, you must graduate from a licensed practical nursing program.

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There are students who have completed professional nursing (RN) courses in the U.S. and foreign countries who would be able to take the LPN exam if this language was changed to include graduating from either a Licensed Practical Nursing Program, or a Professional Nursing Program. Ten (10 percent) of graduate nurses fail the exam for RN licensure, and this would permit these individuals to avail themselves of the LPN licensure status while preparing to retake the RN licensure exam.

Such an amendment would give nurses an alternative to continue to deliver health care services in the manner in which they are trained. In addition, it would allow hospitals and other health care institutions to have increased access to LPNs who can pass some medications and be more directly involved in patient care.

This approach is not unprecedented. There are other states, such as Colorado and Missouri, that allow it. It is also logical because the entire scope of practice of an LPN is within the scope of practice of an RN. Indeed, current policy recognizes this logic because those persons who are enrolled in two year associate degree nurse programs are eligible to take the LPN exam after one year.

Thank you for your consideration of our comments.

TLB / pc

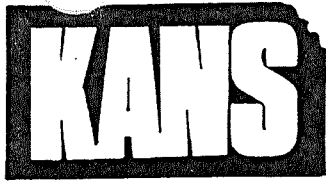
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(c) *License.* (1) *By Examination.* The applicant shall be required to pass an examination in such subjects as the board may prescribe. Each examination may be supplemented by an oral or practical examination. Upon successfully passing such examinations, the board shall issue to the applicant a license to practice as a licensed practical nurse. (2) *Without examination.* The board may issue a license to practice as a licensed practical nurse without examination to any applicant who has been duly licensed or registered by examination as a licensed practical nurse or a person entitled to perform similar services under a different title under the laws of any other state, territory or foreign country if, in the opinion of the board, the applicant meets the requirements for licensed practical nurses in this state. *Refresher course.* Notwithstanding the provisions of subsections (a) and (b), an applicant for a license to practice as a licensed practical nurse who has not

OR PROFESSIONAL NURSING

OR PROFESSIONAL NURSING

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H.B. 2603 Nurse Practice Act Graduate Nurse Practice Issue

Chairperson Flowers and members of the House Public Health and Welfare Committee, my name is Georgenia Bowling and I am the current president of the Kansas Association of Nursing Students, K.A.N.S. The Kansas Association of Nursing Students represents over 3,000 nursing students throughout the state of Kansas. I am also a senior at Washburn University School of Nursing and commute from my home in Junction City, KS.

The Kansas Association of Nursing Students supports The Kansas State Nurses Association amendment to H.B. 2603. This amendment provides an incentive for new graduates to sign up for the Computerized Adaptive Testing (CAT) Exam, but still retain the ability of graduate nurses (GN's) and graduate practical nurses (GPN's) to practice, for a maximum of 120 days, pending the results of the first computer test candidates take.

The following is our rationale for supporting the amendment:

As GNs and GPNs we will receive notification approximately two weeks after our respective schools of nursing verify our graduation to the Board of Nursing that we are eligible to take the exam. When we call the Sylvan Learning Center they must provide a testing time within 30 days of our initial call. Following the test, the Board of Nursing will be notified within 48 hours by Sylvan Learning Centers of pass/fail status. The Board of Nursing would then in turn notify candidates of licensure status based on the exam results. Assuming that all the time elements I have discussed are accurate, and that is giving the yet to be tested

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system the benefit of the doubt potentially 44 or more days will be gone. We feel valuable professional experiences will be lost to us as we wait to take the exam. In talking with prior GNs they have stated that the time they were allowed to work as GNs after graduation was a time that they increased their confidence and knowledge level. A time when they also increased their competency while working under supervision. This period of time is a window of opportunity to apply theoretical knowledge into practice. Many GNs will be working in rural areas of Kansas and have plans to start working immediately after graduation.

You can be assured that as GNs we understand the legal ramifications of practicing once we have been denied licensure for failing to pass the exam. As student nurses our behavior exemplifies honor.

I am only one of many student nurses who have received a scholarship from the Kansas Board of Regents to pursue nursing as a field of study and to practice nursing in Kansas with an emphasis on underserved rural areas. My future employer, Geary Community Hospital in Junction City, KS, has requested I start work as soon as possible after graduation on May 14, 1994. I want to honor that request and start serving the community that sponsored me with scholarships. Personally, I am planning to pass my board exam, but in the event I do not, I can assure you I would not attempt to practice and misrepresent this information to my employer.

For many of us the loss of income while we wait for the CAT Exam will be an economic hardship. We come from all walks of life, single mothers, independent students who have put themselves through college, or like myself, a wife, and mother of two children. I quit work after 15 years to pursue a lifetime dream. We live on extremely tight budgets.

The loss of income for 6 to 8 weeks for GN's practicing in rural Kansas range from \$2700 to \$3600. This amount is based on a 40 hour work week in Geary County. While I choose to practice in a rural area, many may choose to cross the state lines into Kansas City, Missouri and neighboring Colorado where GN's are allowed to practice. It would be sad for the state of Kansas to educate

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excellent nurses, then see them leave the state of Kansas to seek employment once they graduate.

We, as student nurses in Kansas, appreciate your consideration and hope that you will support the privilege of new graduates to work. The experience, knowledge and wages that would be lost during the proposed wait could be and should be avoided.

We are more than college students seeking a degree. We are nursing students entering a profession striving to make a difference in the lives of people in Kansas!

Thank you for this opportunity to address you.

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STATE OF KANSAS



DIVISION OF THE BUDGET

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Joan Finney
Governor

Gloria M. Timmer
Director

January 24, 1994

The Honorable Joann Flower, Chairperson
House Committee on Public Health and Welfare
Statehouse, Room 426-S
Topeka, Kansas 66612

Dear Representative Flower:

SUBJECT: Fiscal Note for HB 2603 by House Committee on
Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note
concerning HB 2603 is respectfully submitted to your committee.

HB 2603 would amend current law regarding the practice of
nursing in the state. Three similar changes are made to the
statutes relating to registered professional nurses and to licensed
practical nurses. The first amendment changes current language
regarding graduation from a professional or practical nursing
school. These changes include the addition of language permitting
graduates of nursing schools in foreign countries to be considered
qualified for licensure **with examination** to practice in the state.
HB 2603 requires that these schools be approved by the Board.

The bill deletes current language allowing nurses to be
licensed if they have been convicted of a felony and satisfactorily
rehabilitated. Also, a provision is added in the bill to allow the
Board to prescribe remedial or other requirements to applicants for
licensure if an applicant is found to be deficient in
qualifications.

The second amendment to current statutes for professional and
practical nurses provides for the Board to require nurses who have
not been licensed to practice nursing for five years prior to the
application for licensure to complete a refresher course
successfully. Also, language allowing the Board to issue a license

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atlm #13

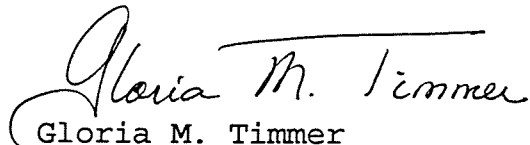
The Honorable Joann Flower, Chairperson
January 24, 1994
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without examination to an applicant who was licensed in another state, territory or foreign country is deleted in the bill.

The third change to current statutes relates to temporary permits for nurses. Provisions for the Board to issue a temporary permit to an applicant who is enrolled in a refresher course required by the Board for reinstatement of a license is deleted. Finally, the bill amends KSA 65-1124 which states that the statutes related to the practice of nursing should not be construed to prohibit the practice of nursing by applicants in a supervised clinical portion of a refresher course. Language is deleted, however, that allows the practice of nursing by graduates prior to licensure, pending the results of the licensing examination following graduation.

The Board of Nursing indicates that HB 2603 has no fiscal effect on state revenues or expenditures.

Sincerely,



Gloria M. Timmer
Director of the Budget

cc: Pat Johnson - Board of Nursing

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Attn #13-2
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