

SESSION OF 2010

**SUPPLEMENTAL NOTE ON
SUBSTITUTE FOR HOUSE BILL NO. 2575**

As Amended by Senate Committee on
Public Health and Welfare

Brief*

Sub. for SB 2575, as amended, would create the Perfusion Practice Act and enact the Naturopathic Doctor Licensure Act. In addition, the bill would amend current law to require licensure of naturopathic doctors.

Perfusion Practice Act

The bill would create the Perfusion Practice Act and establish a Perfusion Council under the State Board of Healing Arts. The Act would establish educational and licensure requirements for perfusionists. The Act also would define the activities performed by individuals in the practice of perfusion. (New Sections 1-18) The Perfusion Act would become effective upon publication in the statute book (July 1, 2010), unless otherwise noted.

Licensure and Identification Requirements

(Sections 3, 5, 6, 7)

The Perfusion Practice Act would:

- Require all persons who practice perfusion to be licensed on July 1, 2011 (effective on July 1, 2011);
- Allow only those persons licensed under this act to use the title "perfusionist", or words, or the abbreviations "LP," "LCP," and "CCP" (effective on July 1, 2011);
- Establish filing requirements for the issuance of a license;

- Provide a procedure to issue a temporary license for a maximum of two years to be in conformity with other licensed professions regulated by the Kansas State Board of Healing Arts;
- Allow reciprocity for persons previously engaged in the active practice of perfusion outside the state who meet the requirements for licensure;
- Provide a reinstatement procedure in the case of license revocation;
- Authorize the Board to implement rules and regulations regarding requirements for continuing education and to request that a licensee submit to a continuing education audit;
- Require an active licensee to provide the Board with satisfactory evidence of professional liability insurance prior to renewal of a license, and allow the Board to require the same during an audit; and
- Create the designations and requirements of an inactive license and a federally active license.

Licensure Exemptions

(Section 4 effective July 1, 2011)

The Act would establish exemptions to the licensure requirements for:

- Persons licensed by another health professional licensing board who meet specific requirements;
- Persons performing autotransfusion or blood conservation techniques;
- Students enrolled in an accredited perfusion education program which meets specific requirements;

- Health care providers in the United States armed forces, public health services, federal facilities and other military service when acting in the line of duty; and
- Persons assisting in an emergency.

Fee Structure

(Sections 8 and 9 effective on July 1, 2011)

The Act would:

- Require the Board to charge and collect, in advance, fees as established by rules and regulations set by the Board including a change in the fee for an inactive license application from \$50 to \$300; and
- Instruct the Board to remit money received from fees, charges, or penalties to the State Treasurer who would deposit it in the State Treasury with 20 percent credited to the State General Fund and the balance credited to the Healing Arts Fee Fund.

Perfusion Council

(Sections 10 and 11)

The Act would:

- Establish the Perfusion Council (Council) which would meet at least once each year to assist the Board in carrying out the provisions of this Act;
- Provide for Council membership to include five members, with two members appointed by the Board of Healing Arts and three members appointed by the Governor. Members appointed by the Board would serve at the pleasure of the Board and members appointed by the Governor would serve for four years;

- Provide for payment of mileage reimbursement from the Healing Arts Fee Fund for Council members attending Council meetings; and
- Set out the advisory duties of the Council.

Discipline of Licensees

(Sections 13, 14, and 16)

The Act would authorize the Board of Healing Arts to take disciplinary action against any licensee by:

- Establishing grounds under which the Board may limit, suspend, or revoke licenses; censure, reprimand, place on probation, fine or sanction a licensee; or deny an application or reinstatement of a license (effective on July 1, 2011);
- Providing for administrative proceedings in accordance with provisions of the Kansas Administrative Procedure Act and for a review process in accordance with the Kansas Judicial Review Act (effective on July 1, 2011);
- Giving the Board jurisdiction in disciplinary action proceedings for any licensee practicing under this Act;
- Allowing the Board to enter into a binding stipulation with licensees in disciplinary actions;
- Permitting the Board to bring an action for injunction against violations of the Act in the name of the State in a court of competent jurisdiction without regard to whether administrative proceedings have begun before the Board, or whether criminal proceedings have been or may be instituted (effective on July 1, 2011); and
- Allowing the Board to temporarily suspend or limit the license of any licensee in cases where continuation of practice would endanger public health and safety. The Perfusion Practice Act also would prohibit any

language of the Act to be construed to require an individual, group, or blanket insurance policy, contract, plan, or agreement for medical services issued after the effective date of the Act to reimburse or indemnify a licensee for services provided as a perfusionist (Section 15). After July 1, 2011, any violation of the Act would constitute a class B misdemeanor (Section 17).

Naturopathic Doctor Licensure Act

The bill would create the Naturopathic Doctor Licensure Act, effective on January 1, 2011, and change the regulatory status of naturopathic doctors with the Board of Healing Arts from registrants to licensees. The bill also would authorize naturopaths to form professional corporations and would provide clarifying language that licensure does not require health insurance to provide covered services. (Sections 19-35)

Background

At the hearing on HB 2575 before the House Health and Human Services Committee, proponents included several representatives of the Kansas Naturopathic Physician's Association, as well as representatives of Ancient Formulas, Inc. and the Kansas Department of Health and Environment.

A representative of the Kansas Medical Society (KMS) appeared in opposition to the bill. The KMS was opposed to the original bill's inclusion of scope of practice which would have allowed naturopaths to prescribe, recommend, or administer bio-identical medicines approved for intravenous administration and would have allowed naturopathic doctors to perform school health assessments for students up to the age of nine. An agreement was reached between the naturopathic doctors and the KMS. The agreement is the substitute bill.

At the hearing on Sub. for HB 2575 before the Senate Public Health and Welfare Committee, proponents of the bill included representatives of the Kansas Naturopathic Physicians Association, naturopathic physicians, and a representative of the Kansas Medical Society. A representative of the Kansas

Naturopathic Physicians Association testified that the contents of Sub. for HB 2575, as recommended by the House Health and Human Services Committee, represented a negotiated agreement between the Association and the Kansas Medical Society in support of licensure for naturopathic physicians. The representative further testified that included in the negotiated agreement was a promise by the parties to continue the discussion on changes to the scope of practice for naturopathic physicians. Written testimony in favor of the bill was received from private citizens, a physicians, and a representative of the Kansas Department of Health and Environment.

There were no opponents to Sub. for HB 2575, as recommended by the House Committee on Health and Human Services.

The Senate Public Health and Welfare Committee amended Sub. for HB 2575 by adding the contents of Sub. for SB 501. The bill, as amended, contains the Perfusion Practice Act and the Naturopathic Doctor Licensure Act. The background on SB 501 follows.

SB 501 was introduced by the Senate Committee on Public Health and Welfare at the request of Senator Dick Kelsey, a member of the Committee. Proponents of the bill included representatives of Health Occupations Credentialing for the Kansas Department of Health and Environment and the Kansas Practicing Perfusionists Society. Written testimony in support of the bill was provided by the Kansas State Board of Healing Arts. Proponents stated that the bill would establish minimum standards of education, training, and competency of persons engaged in the practice of perfusion and would serve to protect the public from untrained and unqualified practitioners.

No opponents testified on SB 501.

For the purpose of clarity, the Senate Public Health and Welfare Committee recommended adoption of Sub. for SB 501. The subject matter of the original bill and the substitute bill remained the same.

The Senate Committee of the Whole made technical amendments to Sub. for SB 501. The maximum length of time a temporary license could be held was amended from three years to two years to be in conformity with other licensed professions regulated by the Kansas State Board of Healing Arts. Other permissible acronyms used by licensed perfusionists were added, and the fee for an inactive license application was changed from \$50 to \$300.

Sub. for SB 501 was passed by the Senate. The bill is currently before the House Committee on Health and Human Services, but no hearing has been scheduled to date.

The fiscal note on the original SB 501 prepared by the Division of the Budget states that implementation of the bill would cost approximately \$23,500 from the Healing Arts Fee Fund in FY 2011. The State Board of Healing Arts estimated 50 new licenses would be issued in the first year at a fee of \$80 per application, for total revenue of \$4,000 to the Healing Arts Fee Fund in FY 2011, and similar renewal numbers are anticipated in future fiscal years. Any fiscal effect resulting from the passage of SB 501 is not included in the *FY 2011 Governor's Budget Report*.

Sub. for SB 501, as recommended by the Senate Public Health and Welfare Committee, would increase the application and renewal fees over those established in the original bill. The original fiscal note does not reflect these changes.

The fiscal note on the original HB 2575 indicates the bill would increase the rules and regulations, applications, online booklets, and other website information as they apply to naturopathic doctors to reflect the new regulatory status of licensure and the new scope of practice. The Board estimates the costs to make these changes is estimated to be under \$2,000.