

KANSAS BOARD OF HEALING ARTS

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EXECUTIVE DIRECTOR



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MEMO

TO: House Committee on Health and Human Services

FROM: Lawrence T. Buening, Jr.
Executive Director

DATE: February 17, 2004

RE: HOUSE BILL NO. 2820

Thank you for the opportunity to provide testimony in support of House Bill No. 2820. This bill was introduced at the request of the Board and amends 10 statutes administered by the Board relating to six of the health care professions the Board regulates. While the bill is sizeable due to the length of the statutes that are being amended, the amendments proposed by this bill are primarily technical in nature and are intended to make the statutes for these various professions more similar and more easily administered by the Board.

Section 1 amends K.S.A. 65-2005 which is part of the Podiatry Act. Podiatrists are the only doctors licensed by the Board that are regulated under statutes that are not part of the Healing Arts Act. Since its enactment in 1957, the Healing Arts Act has only applied to medical doctors, osteopathic doctors and chiropractors. By Executive Reorganization Order No. 8 issued by the Governor on February 10, 1975, the State Podiatry Board of Examiners was abolished and the powers, duties and functions transferred to the Board. Legislation for the licensure and regulation of podiatrists has been separate from the Healing Arts Act and is located at K.S.A. 65-2001 *et seq.* The language inserted at Page 1, Line 42 is identical to that in the Healing Arts Act at K.S.A. 65-2809(c) and allows the Board to cancel a podiatrist's license for non-renewal if the licensee has failed to meet the renewal requirements after receiving two notices. Currently, the Kansas Administrative Procedure Act requires notice and an opportunity for hearing after mailing two notices.

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Section 1 further amends K.S.A. 65-2005 on Page 2 by authorizing the issuance of a postgraduate permit. K.S.A. 65-2003(a) has required postgraduate training as a condition of licensure since July 1, 1988. The current language makes no differentiation between a temporary permit issued to those who have met all the requirements for licensure and are awaiting final Board action from those who obtain a temporary permit to engage in an approved postgraduate training program in Kansas.

New subsection (i) and (j) create the designations of inactive license and federally active license for those individuals who are not engaged in the active practice of podiatry in Kansas and who are employed by the United States government. The language in these two subsections is almost identical to those license designations created for healing arts licensees under K.S.A. 65-2809(g) and (h). An individual holding an inactive license designation will not be allowed to engage in any practice in Kansas and will not be required to maintain professional liability insurance or obtain continuing education. Persons with a federally active license designation must meet all the requirements imposed upon those with a license to actively practice, with the exception of professional liability insurance since their coverage is provided by the Federal Tort Claims Act.

New subsection (l) sets forth the process for reinstatement of a revoked license with language almost identical to that located in the Healing Arts Act at K.S.A. 65-2844.

Section 2 of the bill amends K.S.A. 65-2012 relating to the statutory maximums of fees that can be established by the Board. This subsection makes provision for the newly-created license designations of inactive and federally active and establishes the statutory maximums of fees for podiatrists identical with that in the Healing Arts Act at K.S.A. 65-2852.

Section 3 of the bill substantially amends K.S.A. 65-28a03 relating to physician assistants. The current language which is stricken on page 6 creates separate grounds for removal from the registry of those physician assistants who may engage in “private” practice from the grounds for revoking a license set forth in K.S.A. 65-28a05. The new language beginning at Page 6, Line 43 simplifies the process by which a physician assistant may engage in active practice. Changes made on Page 7, Lines 17, 24-28, 31 and 35 make the renewal process similar to that for other professions regulated by the Board. New Section (e) and (f) create inactive and federally active license designations. Current language does not provide for any difference in license designations for those who may actively engage in practice and those who do not currently practice and do not have a responsible physician. Further, there are those individuals employed by the Federal government that do not have a person licensed by the Board as their responsible physician. Finally, subsection (g) provides statutory maximums for the newly-created license designations and for conversion of these designations to a license that entitles the physician assistant to engage in practice in Kansas.

Section 4 creates an inactive license designation for physical therapists who may not be currently practicing and, therefore, are not maintaining professional liability insurance as required by K.S.A. 2003 Supp. 65-2920. This statute requires that a policy of professional liability insurance be maintained by each physical therapist “actively practicing in this state”.

Section 5 of the bill relates to occupational therapists and occupational therapy assistants. Amendments are made to K.S.A. 65-5410 to expand the disciplinary sanctions that can be imposed for unprofessional conduct. The ability to assess a fine for unprofessional conduct is also added.

Section 6 amends K.S.A. 65-5412. These changes relate to the expiration of licenses and the process for renewal and make such similar to other professions regulated by the Board. Since the Board began the registration of occupational therapists and occupational therapy assistants in 1986, the expiration date has been established by rule and regulation to be the same for all holders of an OT or OTA credential. However, when the Board attempted to amend the rule and regulation due to the change in credentialing status made by the 2002 Legislature, we were advised that the current language of K.S.A. 65-5412 required that each license, when issued, be for a period of one year. This would result in all licenses expiring at different times throughout the year.

Section 7 amends K.S.A. 65-5510 relating to respiratory therapists. Like the amendments to K.S.A. 65-5410 in Section 5, these amendments expand the disciplinary sanctions that can be imposed for unprofessional conduct and allow the Board to assess a civil fine.

Section 8 amends K.S.A. 65-5512 and deals with the expiration of licenses for respiratory therapists in the same manner as Section 6 deals with occupational therapists and occupational therapy assistants.

Similarly, Section 9 expands the disciplinary sanctions that can be imposed on naturopathic doctors for unprofessional conduct and authorizes imposing a civil fine.

Section 10 amends K.S.A. 65-7209 relating to naturopathic doctors and makes the expiration date and renewal process similar for this process as Section 6 and 8 do for occupational therapy and respiratory therapy.

I apologize for the length of this testimony. The changes being requested by House Bill No. 2820, although not substantive in nature, will greatly assist the Board in its administration of the laws relating to these six professions and we ask the Committee to take action to consider this bill favorably for passage by the House as a whole.