

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 1:45 p.m. on February 11, 2004 in Room 231-N of the Capitol.

All members were present except.

Ms. Emalene Correll, Legislative Research - excused

Committee staff present:

Ms. Terry Munchmore, Legislative Research

Mr. Norm Furse, Revisor of Statutes

Mrs. Diana Lee, Revisor of Statutes

Ms. Margaret Cianciarulo, Committee Secretary

Conferees appearing before the committee:

Mr. Larry Buening, Executive Director, Kansas Board of Healing Arts

Mr. Don Jordan, Superintendent of Osawatomie State Hospital

Ms. Chris Collins, Director of Government Affairs, Kansas Medical Society

Others attending:

See Attached List.

Hearing on SB 426 - an act concerning institutional licenses under the Kansas Healing Arts Act

Upon calling the meeting to order, the Chair announced there would be a hearing on **SB 426**, an act concerning institutional licenses under the Kansas Healing Arts Act and asked that Mr. Furse give an overview of the bill.

Highlights included:

- 1) page 1, modifies current law and makes two primary policy changes, provides slightly modified language relating to persons eligible who may be issued a license, line 16 would delete healing arts and require that a person be graduated from a school of medicine or osteopathic medicine; in lines 20 and 21 that individual must have completed two years of post graduate training program; old language in line 22 must be employed as provided in this section;
- 2) the language relating to the branch of the healing arts is deleted in line 25 and "medicine and surgery" is inserted as in lines 16 and 17 and still refers to a medical doctor and osteopathic doctor;
- 3) then (©) provides the location basically where the license holders may practice; in line 31 it provides that the holder is employed by any institution with SRS and for at least three years as described in subsection ©) (1) then goes on to list the mental health services, contracted affiliates or a federal, state, county or municipal agency, etc. (This change was made by the legislature several years ago to pick up these contract kinds of situations Senator Salmans was referring to in yesterday's committee meeting.)
- 4) on page 2, the third area of practice would be for individuals who have been in practice for at least three years and are providing mental health services pursuant to a written protocol with the person who holds a license to practice medicine and surgery other than an institutional license;
- 5) one of the major policy changes is in lines 15 through 17, which provides that an institutional license is valid for a period two years as current law but it also provides that it may be renewed for an additional two year periods, currently the license is limited to one two-year period;
- 6) the new language in lines 20 through 24 relating to meeting requirements of the subsection (©) of this section (the applicant has submitted an application for renewal on a form provided by the Board, paid the renewal fee established by rules and regs of the Board, not to exceed \$500) with the deleted language, lines 24 through 28, strikes the continuing education requirement.

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7) new language in lines 28 through 32, and the second major change, provides that in addition, an applicant for renewal employed under the subsection (1) is to submit with the application a recommendation that the institutional license is renewed signed by the superintendent of the institution to which the license holder is assigned;

8) in lines 39 through 40, this new language allows a person who no longer has an institutional license to come back and apply for one if they met the requirements set out here and have had an institutional license before.

The Chair then asked for questions for Mr. Furse. A discussion ensued between Senator Salmans, Mr. Buening, and Mr. Furse regarding a question Senator Salmans asked concerning when someone is working for one of the centers where they do not have a superintendent or some of the other areas and after the first two years, do you think this would cause a problem. Mr. Furse mentioned that he also questioned this and would like to look at massaging some of the language (ex. Superintendent, clinical director.) Mr. Buening stated that they were only thinking about state hospitals and referred the Committee to page 2, line 29, the way he drafted this was that he limited the employment to only the SRS and Department of Corrections institutions and did not intend to make a recommendation from anybody else a requirement of renewal if they were employed in the other two situations. Mr. Furse also stated that they would be subject to the individual body that they would be employed. Senator Salmans followed by saying their employment could be terminated by that employer and would fall outside the scope of this. The issue of massaging this language was again asked and it was felt that clarification was made and that no change was necessary. The Chair then asked who had written the bill and was there any other place in the bill where language needed to be massaged. As this was the only question posed, the Chair then called upon the first proponent to testify.

Mr. Larry Buening, Executive Director, Kansas Board of Healing Arts, who stated that the bill amends the current statute pertaining to institutional licenses stating the current qualifications for an institutional license, what is needed to be eligible for renewal, and the proposed amendment provisions and allow expanded practice by an institutional licensee if they have practiced with an SRS or DOC institution for at least three years. He also offered the history behind the institutional license which has been around for 35 years. And lastly, he said the purpose of the proposed amendments is to increase the requirements to be eligible for an institutional license, but the enabled renewal of the license following issuance without having to meet additional qualifications. A copy of his testimony is (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

The second proponent conferee was Mr. Don Jordan, Superintendent of Osawatimie State Hospital and Rainbow Mental Health Facility, which he stated were the two state mental health hospitals managed by the Department of Social and Rehabilitation Services (SRS). He offered three features that are managed by the services of physicians who are employed at a state institution. He stated that the changes to the institutional license option contained within the bill strengthen its value by:

1) removing the prior limitation of two years which can and has, because of such reasons as cultural or language barriers, served as an automatic disqualified of an otherwise capable physician; and,

2) including the two-year postgraduate training requirement, they are assured of this as a minimum standard for future holders of these licenses, and in no way limited from including additional training requirements in employment contracts with these physicians when appropriate.

And lastly, he did suggest one adjustment at the subsection (e), recommending the addition of language to

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this effect:

In addition, nothing in this section will prohibit the renewal of an existing institutional license originally issued prior to the effective date of this act if the person meets the requirements of the subsection.

(3), thus ensuring that a person who has long held an institutional license is able to renew that license by meeting the renewal criteria.

A copy of his testimony is (Attachment 2) attached hereto and incorporated into the Minutes as referenced.

The third and final proponent conferee to testify was Ms. Chris Collins, Director of Government Affairs, Kansas Medical Society, who also offered history and stated that they remain opposed to the concept of granting a license to practice medicine and surgery to those who have not met the full academic and examination requirements set forth in the Healing Arts Act for all physicians. However, she stated, in the present case, the bill simply creates a “grandfather clause” for those currently practicing in state institutions under these licenses and may only continue to practice as they currently are within the state institutional setting, a venue where recruitment of new practitioners can be somewhat challenging. She ended by saying, for the above reason, the Kansas Medical Society urges the passage of this bill. A copy of her testimony is (Attachment 3) attached hereto and incorporated into the Minutes as referenced.

As there were no opponent or neutral conferees or written testimonies, the Chair asked the Committee if there were questions or comments. Senators Salmans, Wagle, and Barnett asked a range of questions from would the Kansas Medical Society be agreeable to the addition as was just heard from the last conferee, what kind of salary are these individuals working on, do you have any range, geographical differences, to, is it hard to fill these positions. Senator Salmans did want to thank Mr. Buening and the others who had taken on the research for this legislation, and if passed, would be a major betterment for the kids and patients of these institutions, and also for giving him the opportunity to work with the foreign doctors working in these institutions.

As there were no further questions or comments, the Chair announced the hearing closed.

Adjournment

As there was no further business, the meeting ended. The time was 2:25 p.m.

The next scheduled meeting is Thursday, February 12, 2004