

To: Representative Jim Morrison, Chairman
House and Human Services Committee

From: Diane Glynn, JD, RN
Practice Specialist
Kansas State Board of Nursing

Re: HB 2852

Date: March 2, 2006

Good Afternoon Chairman Morrison and Members of the House and Human Services Committee. My name is Diane Glynn, Practice Specialist for the Kansas State Board of Nursing. I am providing testimony on behalf of the Board Members to provide support of HB 2852 which will allow the Board of Nursing to ask an applicant for licensure to be fingerprinted and submit to a state and national criminal history record check.

The mission of the Board of Nursing is to assure the citizens of Kansas safe and competent practice by nurses and mental health technicians. The Board of Nursing has been working with KBI on the language of this proposed bill and it has been approved by the FBI.

The citizens of Kansas are dependent upon the Board of Nursing to conduct appropriate screening of applicants. Boards of Nursing have the responsibility of regulating nursing and a duty to exclude individuals who pose a risk to the public health and safety. In 1998 only five boards of nursing were authorized to use criminal background checks and in 2005 a National Council of State Boards of Nursing survey revealed the number had increased to 18 boards.

Teachers, banking and financial positions, and in some states physicians require criminal background checks. The Kansas judicial system received authority to require fingerprint and criminal background checks on attorneys in 2005 and the system has been implemented. Three states (Massachusetts, Missouri, and Oregon) require criminal background checks for most, if not all professional licensure applicants. Although most states ask questions about criminal convictions on licensure applications, applicants may not be motivated to be truthful. Criminal background checks provide validation of the information reported or not reported on applications.

Review of information from State Boards of Nursing who have implemented fingerprints and criminal background checks reveal that the rate of positive returns is 6-7% for RNs and 10-12% for LPNs.

On September 30, 2003 the Board of Nursing was notified by a Registered Nurse in New Mexico that he had received information from the Internal Revenue Service (IRS) that he had worked in Kansas and had not paid taxes on that income. The nurse from New Mexico had never worked in Kansas. KSBN investigated the allegations and

collaborated with the FBI who arrested the imposter on November 18, 2003. The imposter was originally licensed in Missouri in 1985 and in Kansas in 1998. At least one agency that had employed the imposter had run a security check and it produced a “clean” record. Had fingerprints been required on application, this imposter would not have been granted a license. The imposter was a convicted felon. The nurse who was the victim of identify theft was in the Army Reserve. Fingerprints for both of these individuals were on file, and the imposter would have been exposed.

Criminal convictions are permissive grounds for discipline or denial of licensure for all boards of nursing, with the one exception for Kansas, the person-felony bar. Kansas law allows for the board to weigh and balance the conviction with mitigating factors. Not all applicants with a criminal history are or should be denied a license. Each applicant receives individual analysis. K.S.A. 65-1120 (f) currently authorizes the Board of Nursing to receive (from the KBI) criminal history record information relating to arrests and criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of applicant.

On December 4, 2005 the Council of State Governments Health Policy Task Force signed a resolution on supporting criminal background checks for nurses applying for state licenses. A copy of the resolution is attached to this testimony.

KSBN requests this bill be amended with language to allow the Board of Nursing to fix a fee in the amount necessary to reimburse the board for the cost of the fingerprints.

We ask for favorable action on this legislation. Thank you for your time and consideration and I will stand for questions.