

Approved 4-1-86
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at
Chairperson

10:00 a.m./~~p.m.~~ on March 28, 1986 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Legislative Research
Norman Furse, Revisors Office
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Written testimony by Douglas "Mack" Smith, Executive Secretary, State Board of
Mortuary Arts

Balloon of HB-2533 presented by staff

Written Testimony from Board of Healing Arts pertaining to HB-3061 Attachment II

Written Testimony from Alan F. Alderson, Attorney for the Kansas Recreation
and Parks Association pertaining to HB-2498 Attachment IV

Others attending: See attached list

HB-3082 - An Act concerning the board of nursing; concerning qualifications
of applicants and licensees; relating to fees collected by the
board;

The chairman placed HB-3082 before the committee for action. Senator Fran-
cisco stated he was having amendments drawn concerning this bill. In order
to proceed with this bill Senator Francisco moved that the Board of Governors
be expanded to thirteen members, one certified nurse anesthetist and another
member of the public at large being added to the board. Senator Anderson
seconded the motion.

Senator Morris made a substitute motion that at the time of the next
expiration of a public member there be one certified nurse anesthetist
appointed to that position. Senator Francisco seconded the motion and
the motion failed.

Senator Walker made a substitute motion that the bill be amended to read that
one of the five professional nurses on the board be a certified nurse
anesthetist. Senator Anderson seconded the motion. During discussion it
was suggested that a resolution could be sent. Senator Anderson withdrew his
second and Senator Walker withdrew his motion.

Senator Walker moved that HB-3082 be passed out favorable. Senator Kerr
seconded the motion. Discussion followed concerning the raising of fees.
Senator Kerr stated that some control is still possible as the group can be
requested to lower the fees. Motion carried.

Senator Francisco moved that the chairman be instructed to write a letter to
the governor and request that a certified nurse anesthetist be appointed on
the State Board of Nursing. Senator Hayden seconded the motion and the motion
carried.

Written testimony was submitted by Mack Smith concerning HB-3022. Attachment I
Mr. Smith was requested by the committee to further explain the education
provisions of this bill. Mr. Smith stated that there were two ways to obtain
a license, one requiring 60 hours of college before entering a school of
mortuary science offering a twelve month course in mortuary science and
accumulating 30 hours of training during this time or graduating from a
college or university with an AA degree in mortuary science accumulating
thirty semester hours in mortuary science. By allowing embalmer applicants

Unless specifically noted, the individual remarks recorded herein have not
been transcribed verbatim. Individual remarks as reported herein have not
been submitted to the individuals appearing before the committee for
editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 28, 1986

to take the required sixty (60) hours of college before or after mortuary school--you directly effect the reciprocal amendment in the bill. Applicants that went directly from high school to a one year mortuary school and then went on to obtain sixty hours of college after mortuary school would not qualify for an embalmer's license under current laws. This bill would allow that individual to reciprocate with Kansas--if the provision of "before or after" mortuary school is retained.

Mr. Smith further stated that the Board requested this bill with the intent of up-dating an old outdated statute. The sixty (60) hours of college are not individually specified for the embalming license which is why the Board has no problem with when it was taken--either before or after mortuary school.

Senator Walker moved that Section 1 be replaced in HB-3022. Senator Anderson seconded the motion and the motion carried.

Senator Salisbury moved that amended HB-3022 be passed out favorable. Senator Anderson seconded the motion and the motion carried.

Senator Hayden will carry HB-2843 on the Senate floor.

HB-2533 - An Act concerning respiratory therapy; providing for registration of respiratory therapists by the state board of healing arts; establishing a respiratory therapist council; declaring certain acts to be unlawful and providing penalties for violations;

Staff presented a balloon of technical amendments for HB-2533. Attachment II

Senator Hayden moved that the new Section 5 be deleted. Senator Salisbury seconded the motion and after some discussion the motion carried.

The amendments presented by Steve Curtis were looked at and compared to the balloon of HB-2533.

Senator Francisco moved that the amendments to change the name to respiratory therapist, registered, include inhalation therapists and the changes in the balloon of HB-2533 presented by staff be adopted. Senator Riley seconded the motion and the motion carried.

Senator Francisco moved that HB-2553 be passed out favorable as amended. Senator Riley seconded the motion and the motion carried.

The meeting adjourned at 11:07 a.m.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3-28-86

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Wack Smith, Topeka
 Mike Kizdo, Topeka
 Steven Curtis KCK
 Susan Hernandez Topeka
 James L. KERN
 Prudence Spain Lawrence
 Frances Koster
 Jim Snyder - Topeka
 Marilyn Bracht Lawrence
 Peter Carl Lawrence
 Carolyn Scott
 Walter O. Scott

Ks. St. Ed. of
 Anctuary Acts
 Ks. Resp. Ther. Board
 Ks. Respiratory Therapy Society
 Ks. Phys. Ther. Assoc
 KAAAM
 Washburn Nsg.
 Ks. Dental Hygiene Assn
 " " "
 K FDA
 KINH
 KINH
 VISITOR
 "

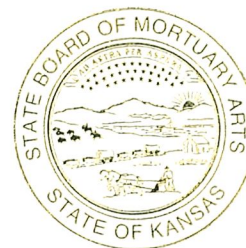
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EXECUTIVE SECRETARY
JOHN C. "JACK" LAMB,
INSPECTOR-INVESTIGATOR
TERRY A. BLAND,
OFFICE SECRETARY

The Kansas
State Board of Mortuary Arts

CREATED AUG. 1, 1907

214 WEST SIXTH (6TH) STREET
TOPEKA, KANSAS 66603-3797
(913) 296-3980



March 27, 1986

Senate Committee on Public Health and Welfare

HB 3022

I want to apologize for my poor explanation of HB 3022 yesterday (Wed. 3/26). I appreciate the opportunity to re-explain the Board's intent.

By allowing embalmer applicants to take the required sixty (60) hours of college before or after mortuary school--you directly effect the reciprocal amendment in the bill. Applicants that went directly from high school to a one year mortuary school and then went on to obtain sixty hours of college after mortuary school would not qualify for an embalmer's license under current laws. This bill would allow that individual to reciprocate with Kansas--if the provision of "before or after" mortuary school is retained.

Current laws make it possible for a person to go from high school to mortuary school and on to sixty (60) hours of college and be eligible for a funeral director license--but not an embalmer license. (even though they have attended an accredited mortuary school)

The Board requested this bill with the intent of updating an old outdated statute. The sixty (60) hours of college are not individually specified for the embalming license, which is why the Board has no problem with when it was taken--either before or after mortuary school.

Again, I apologize for the confusion I caused yesterday. I ask for the committee's support of the original bill.

Sincerely,

Douglas "Mack" Smith
Executive Secretary

DMS:tab

Attachment I

3/28/86

S. PH&W

Attachment I

HOUSE BILL No. 2533

By Committee on Public Health and Welfare

2-27

018 AN ACT concerning respiratory therapy; providing for licensure
019 registration of respiratory therapists by the state board of
020 healing arts; establishing a respiratory therapist council; de-
021 claring certain acts to be unlawful and providing penalties for
022 violations; amending K.S.A. 75-3170a and repealing the exist-
023 ing section.

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

025 New Section 1. This act shall be known and may be cited as
026 the respiratory therapy practice act.

027 New Sec. 2. As used in sections 1 to 19) inclusive:

028 (a) "Board" means the state board of healing arts.

029 (b) "Respiratory therapy" is a health care profession whose
030 practitioners are employed under the supervision of a ~~person~~
031 ~~licensed by the board to practice medicine and surgery~~ physician
032 in the therapy, management, rehabilitation, diagnostic evalua-
033 tion and care of patients with deficiencies and abnormalities
034 which affect the pulmonary system and associated aspects of
035 cardiopulmonary and other systems functions, and includes all of
036 the following:

037 (1) Direct and indirect pulmonary care services that are safe,
038 aseptic, preventative and restorative to the patient.

039 (2) Direct and indirect respiratory care services, including
040 but not limited to, the administration of pharmacological and
041 diagnostic and therapeutic agents related to respiratory care
042 procedures necessary to implement a treatment, disease pre-
043 vention, pulmonary rehabilitative or diagnostic regimen pre-
044 scribed by a person licensed to ~~practice medicine and surgery~~
045 physician.

046 (3) Observation and monitoring of signs and symptoms, gen-

)" Printing error

Attachment II

0047—eral behavior, general physical response to respiratory care
 0048 treatment and diagnostic testing, determination of whether such
 0049 signs, symptoms, reactions, behavior or general response exhibit
 0050 abnormal characteristics and implementation based on observed
 0051 abnormalities of appropriate reporting or referral or respiratory
 0052 care protocols, or changes in treatment regimen, pursuant to a
 0053 prescription by a ~~person licensed to practice medicine and~~
 0054 ~~surgery~~ physician on the initiation of emergency procedures.

0055 (4) The diagnostic and therapeutic use of any of the follow-
 0056 ing, in accordance with the prescription of a physician and
 0057 ~~surgeon~~: Administration of medical gases, exclusive of general
 0058 anesthesia; aerosols; humidification; environmental control sys-
 0059 tems and baromedical therapy; pharmacologic agents related to
 0060 respiratory care procedures; mechanical or physiological ven-
 0061 tilatory support; bronchopulmonary hygiene; cardiopulmonary
 0062 resuscitation; maintenance of the natural airways; insertion
 0063 without cutting tissues and maintenance of artificial airways;
 0064 diagnostic and testing techniques required for implementation
 0065 of respiratory care protocols; collection of specimens of blood;
 0066 collection of specimens from the respiratory tract; analysis of
 0067 blood gases and respiratory secretions.

0068 (5) The transcription and implementation of the written and
 0069 verbal orders of a physician and ~~surgeon~~ pertaining to the prac-
 0070 tice of respiratory therapy.

0071 (c) "Respiratory therapist" means a person who is ~~licensed~~
 0072 ~~registered~~ to practice respiratory therapy as defined in this act.

0073 (d) "Person" means any individual, partnership or unincor-
 0074 porated organization of corporate body.

0075 (e) "Physician" means a person licensed to practice medi-
 0076 cine and surgery.

0077 New Sec. 3. The board, in the manner hereinafter provided,
 0078 shall administer the provisions of this act.

0079 New Sec. 4. (a) ~~On and after July 1, 1987, no person shall~~
 0080 ~~practice respiratory therapy or hold oneself out as a respiratory~~
 0081 ~~therapist, or hold oneself out as being able to practice respiratory~~
 0082 ~~therapy or to render respiratory therapy services in the state,~~
 0083 ~~unless such person is licensed registered in accordance with the~~

Sec. 3. 2

084 provisions of this act.

085 (b) Only an individual may be ~~licensed~~ **registered** under this
086 **act.**

087 New Sec. 5. Nothing in this act shall be construed as pre-
088 venting or restricting the practice, services or activities of:

089 (a) Any person employed as an respiratory therapist by the
090 government of the United States, or any agency thereof, if such
091 person provides respiratory therapy solely under the direction or
092 control of the organization by which such person is employed;

093 (b) any person pursuing a supervised course of study leading
094 to a degree or certificate in respiratory therapy in an educational
095 program approved by the board if such activities and services
096 constitute a part of a supervised course of study and if such
097 person is designated by a title which clearly indicates such
098 person's status as a student or trainee;

099 (c) any person fulfilling the supervised field work experience
100 requirements of section 8, if such activities and services consti-
101 tute a part of the experience necessary to meet the requirements
102 of that section;

103 (d) ~~any person employed by or working under the supervi-~~
104 ~~sion of a respiratory therapist as a respiratory technician;~~

105 (e) any person performing respiratory therapy services in this
106 state who is not ~~licensed~~ **registered** under this act, if such
107 services are performed for no more than 90 days in a calendar
108 year in association with a respiratory therapist ~~licensed~~ **regis-**
109 **tered** under this act and if: (1) Such person is **registered or**
110 **licensed** under the law of another state which has registration or
111 licensure requirements recognized by the board of this state as
112 equal to or greater than the ~~licensure~~ **registration** requirements
113 of this state, or (2) such person meets the requirements for
114 **certification** as a respiratory therapist or **a certified respiratory**
115 technician established by the national board **[of]** respiratory care;
116 or

117 (f) (e) persons licensed to practice any branch of the healing
118 arts, licensed professional nurses, licensed practical nurses; or
119 physical therapists; ~~from using respiratory therapy procedures~~
120 ~~incidental to their profession~~ when practicing their profession

registration
certification as a respiratory therapy
or its successor organization

for

under the statutes applicable to their profession.

0123 New Sec. 6: The board may grant a limited permit to persons
0123 who have completed the education and experience requirements
0124 of this act. This permit shall allow the person to practice respi-
0125 ratory therapy in association with a licensed respiratory therapist
0126 and shall be valid until the date on which the results of the next
0127 qualifying examination have been made public. This limited
0128 permit may be renewed by appeal to the board if the applicant
0129 has failed the examination.

0130 New Sec. 7 6. (a) There is established a respiratory thera-
0131 pist council to assist advise the board in carrying out the provi-
0132 sions of this act. The council shall consist of five members, all
0133 citizens and residents of the state of Kansas: One appointed as
0134 follows: One member shall be a physician licensed by the board
0135 to practice medicine and surgery. One appointed by the state
0136 board of healing arts; one member shall be the secretary of the
0137 state board of healing arts. Three; and three members shall be
0138 respiratory therapists or, prior to January 1, 1987, persons quali-
0139 fied under this act to be registered as respiratory therapists
0140 appointed by the governor. The board shall appoint persons to
0141 membership on the council for terms of four years and until their
0142 successors are appointed and qualified. The board may delegate
0143 powers and duties granted to the board under this act to the
0144 council as it deems proper, including the examination of appli-
0145 cants and the carrying out of the mechanics and procedures
0146 necessary to administer this act. No member shall serve more
0147 than two successive terms on the council. The Kansas respiratory
0148 therapy association shall recommend respiratory therapists to the
0149 board in a number equal to at least twice the vacancies to be
0150 filled; and the board shall appoint members to fill the vacancies
0151 from the submitted list. The board governor, insofar as possible,
0152 shall appoint persons from different geographical areas and per-
0153 sons who represent various types of respiratory therapy treat-
0154 ment. If a vacancy occurs on the council, the appointing
0155 authority of the position which has become vacant shall appoint a
0156 person of like qualifications to fill the vacant position. [If a
0157 vacancy occurs among the respiratory therapists on the council,

0158 Kansas respiratory therapy association shall recommend the
 0159 names of respiratory therapists to the governor in a number equal
 0160 to at least twice the vacancies to be filled, and the governor may
 0161 appoint members to fill the vacancies from the submitted list.
 0162 The terms of the members of the council shall expire on the date
 0163 of expiration of this section under subsection (c).

The
 society
 positions or

0164 (b) Members of the council attending meetings of the coun-
 0165 cil, or attending a subcommittee meeting thereof authorized by
 0166 the council, shall be paid amounts provided in subsection (e) of
 0167 K.S.A. 75-3223 and amendments thereto.

from the healing arts fee fund

0168 (c) This section shall expire on July 1, 1988.

0169 New Sec. 7. The board shall pass upon the qualifications of
 0170 all applicants for examination and registration, provide for and
 0171 conduct all examinations, determine the applicants who suc-
 0172 cessfully pass the examination, duly register such persons and
 0173 adopt rules and regulations as may be necessary to administer
 0174 the provisions of this act. The board shall keep a record of all
 0175 proceedings under this act and a roster of all persons registered
 0176 under this act.

applicants

individuals

Only an individual may be registered under act.

0177 New Sec. 8. An applicant applying for a license registration
 0178 as a respiratory therapist shall file a written application on forms
 0179 provided by the board, showing to the satisfaction of the board
 0180 that the applicant meets the following requirements:

0181 (a) Education: The applicant shall present evidence satisfac-
 0182 tory to the board of having successfully completed the academic
 0183 requirements of an educational program in respiratory therapy
 0184 recognized by the board.

0185 (b) Experience: The applicant shall submit to the board evi-
 0186 dence of having successfully completed a period of supervised
 0187 field work at a minimum recognized by the board.

0188 (c) Examination: An The applicant for licensure as a respira-
 0189 tory therapist shall pass an examination as provided for in section
 0190 9 of this act.

0191 (d) Fees: The applicants shall pay to the board all applicable
 0192 fees established under section 11.

0193 New Sec. 9. (a) Each applicant for licensure registration
 0194 under this act shall be examined by written examination re-

0195 required by the board to test the applicant's knowledge of the basic
 0196 and clinical sciences relating to respiratory therapy, and respira-
 0197 tory care theory and practice, including the applicant's profes-
 0198 sional skills and judgment in the utilization of respiratory ther-
 0199 apy techniques and methods, and such other subjects as the
 0200 board may deem useful to determine the applicant's fitness to
 0201 practice.

0202 (b) Applicants for licensure registration shall be examined at
 0203 a time and place and under such supervision as the board may
 0204 determine. Examinations shall be given at least twice each year
 0205 at such places within this state as the board may determine and
 0206 the board shall give reasonable public notice of such examina-
 0207 tions at least 60 days prior to their administration.

0208 (c) Applicants may obtain their examination scores and may
 0209 review their papers in accordance with rules and regulations
 0210 established by the board.

0211 New Sec. 10. (a) The board shall waive the examination
 0212 and grant a licensure registration to any person who applies for
 0213 registration on or before July 1, 1987, and who was registered
 0214 immediately prior to the effective date of this act as a respiratory
 0215 therapist by the national board of respiratory care or who
 0216 has been employed as a respiratory therapist for the purpose of
 0217 providing respiratory therapy for at least two years within the
 0218 three-year period immediately prior to the effective date of this
 0219 act.

0220 (b) The board may waive the examination, education or ex-
 0221 perience requirements and grant a licensure registration to any
 0222 applicant who presents proof of current licensure or registration
 0223 as a respiratory therapist in another state, the District of Colum-
 0224 bia or territory of the United States which requires standards for
 0225 licensure or registration determined by the board to be equiva-
 0226 lent to or exceed the requirements for licensure registration
 0227 under this act.

0228 (c) At the time of making an application under this section,
 0229 the applicant shall pay to the board the application fee as re-
 0230 quired under section 11.

0231 New Sec. 11. The board shall issue a licensure to any person

education and experience requirements

who pays the application fee

or certified

or respiratory therapy technician

for

232 who meets the requirements of this act upon payment of the
 233 license fee prescribed by the board; charge and collect in ad-
 234 vance fees provided for in this act as fixed by the board by rules
 235 and regulations, subject to the following limitations:

236 Application fee, not more than	\$40
238 Examination fee, not more than	40
240 Registration renewal fee, not more than	20
242 Registration late renewal fee, not more than	40
244 Registration reinstatement fee, not more than	40
246 Certified copy of registration, not more than	20

100

248 New Sec. 12. (a) The board may deny, refuse to renew,
 249 suspend or revoke a license or may impose probationary condi-
 250 tions registration where the licensee registrant or applicant for
 251 license registration has been guilty of unprofessional conduct
 252 which has endangered or is likely to endanger the health, wel-
 253 fare or safety of the public. Unprofessional conduct includes:

- 254 (1) Obtaining a license registration by means of fraud, mis-
 255 representation or concealment of material facts;
- 256 (2) being guilty of unprofessional conduct as defined by rules
 257 and regulations adopted by the board or violating the code of
 258 ethics adopted and published by the board;
- 259 (3) being convicted of a felony if the acts for which such
 260 person was convicted are found by the board to have a direct
 261 bearing on whether such person should be entrusted to serve the
 262 public in the capacity of a respiratory therapist;
- 263 (4) violating any lawful order or rule and regulation rendered
 264 or adopted under this act; and
- 265 (5) violating any provision of this act.

of the board

266 (b) Such denial, refusal to renew, suspension, or revocation
 267 or imposition of probationary conditions upon a license of a
 268 registration may be ordered by the board after notice and hearing
 269 on the matter in accordance with the provisions of the Kansas
 270 administrative procedure act. One year from the date of the
 271 revocation of a license Upon the end of the period of time
 272 established by the board for the revocation of a registration,
 273 application may be made to the board for reinstatement. The
 274 board shall have discretion to accept or reject an application for
 275 reinstatement and may hold a hearing to consider such rein-
 276 statement. An application for reinstatement shall be accompa-

02 nished by the registration reinstatement fee established under
0278 section 11.

0279 New Sec. 13. Foreign trained respiratory therapists shall
0280 satisfy the examination requirements of section 8. The board
0281 shall require foreign trained applicants to furnish proof of com-
0282 pletion of educational and supervised field work requirements,
0283 substantially equal to or greater than those contained in section 8
0284 prior to taking the examination.

0285 New Sec. 14. (a) ~~License Registrations~~ issued under this act
0286 shall be effective for a period of ~~time established by the board~~
0287 one year and shall expire at the end of such period of time unless
0288 renewed in the manner prescribed by the board, upon the
0289 payment of a ~~renewal fee prescribed by the board~~ the registra-
0290 tion renewal fee established under section 11. The board may
0291 establish additional requirements for ~~license registration re-~~
0292 newal which provide evidence of continued competency. The
0293 board may provide for the late renewal of a ~~license registration~~
0294 upon the payment of a late fee established under section 11, but
0295 ~~not no~~ such late renewal of a ~~license registration~~ may be granted
0296 more than five years after its expiration.

0297 (b) A person whose ~~license registration~~ is suspended shall
0298 not engage in ~~the licensed activity, or in any other~~ any conduct or
0299 activity in violation of the order or judgment by which the
0300 ~~license registration~~ was suspended. If a ~~license registration~~ re-
0301 voked on disciplinary grounds is reinstated, the ~~licensee regis-~~
0302 trant, as a condition of reinstatement, shall pay the registration
0303 renewal fee and any late fee that may be applicable.

0304 New Sec. 15. (a) ~~The board shall fix by rule and regulation~~
0305 fees in amounts determined by the board for the purposes
0306 authorized in this act and may adopt such rules and regulations
0307 as may be necessary to carry out the purposes of this act. The
0308 board shall keep a record of all proceedings under this act and a
0309 roster of all persons licensed under the act. The roster shall show
0310 the name, address, date and number of the original license and
0311 the renewal thereof.

0312 (b) The board shall remit all moneys received by or for it
0313 from fees, charges or penalties to the state treasurer at least

0311 monthly. Upon receipt of any such remittance the state treasurer
0315 shall deposit the entire amount thereof in the state treasury.
0316 Twenty percent of each such deposit shall be credited to the
0317 state general fund and the balance shall be credited to the
0318 healing arts fee fund. All expenditures from such fund shall be
0319 made in accordance with appropriation acts upon warrants of the
0320 director of accounts and reports issued pursuant to vouchers
0321 approved by the president of the board or by a person designated
0322 by the president of the board.

0323 New Sec. 16. (a) **On and after July 1, 1987, It shall be**
0324 **unlawful for any person who is not licensed registered under this**
0325 **act as a respiratory therapist or whose licensure registration has**
0326 **been suspended or revoked to use, in connection with such**
0327 **person's name or place of business, the words "respiratory ther-**
0328 **apist," "licensed registered respiratory therapist," "respiratory**
0329 **care practitioner" or any other words, letters, abbreviations or**
0330 **insignia indicating or implying that such person is a respiratory**
0331 **therapist or who in any way, orally, in writing, in print or by sign,**
0332 **directly or by implication, represents oneself as a respiratory**
0333 **therapist.**

0334 (b) Any violation of this section shall constitute a class C
0335 misdemeanor.

0336 New Sec. 17. **When it appears to the board that any person**
0337 **is violating any of the provisions of this act, the board may bring**
0338 **an action in a court of competent jurisdiction for an injunction**
0339 **against such violation without regard to whether proceedings**
0340 **have been or may be instituted before the board or whether**
0341 **criminal proceedings have been or may be instituted.**

0342 New Sec. ~~17~~ 18. All state agency adjudicative proceedings
0343 under sections 1 to ~~18~~ 19, inclusive, shall be conducted in
0344 accordance with the provisions of the Kansas administrative
0345 procedure act and shall be reviewable in accordance with the act
0346 for judicial review and civil enforcement of agency actions.

0347 New Sec. ~~18~~ 19. If any section of this act, or any part thereof,
0348 is adjudged by any court of competent jurisdiction to be invalid,
0349 such judgment shall not affect, impair or invalidate the re-
0350 mainder or any other section or part thereof.

0351 Sec. 49 20. K.S.A. 75-3170a is hereby amended to read as
0352 follows: 75-3170a. (a) The 20% credit to the state general fund
0353 required by *section 15 and* K.S.A. 1-204, 2-2609, 2-3008, 9-1703,
0354 16-609, 16a-2-302, 17-1271, 17-2236, 17-5609, 17-5610, 17-5612,
0355 17-5701, 20-1a02, 20-1a03, 34-102b, 44-926, 47-820, 49-420, 55-
0356 131, 55-155, 55-609, 55-711, 55-901, 58-3074, 65-6b10, 65-1718,
0357 65-1817a, 65-2011, 65-2418, 65-2855, 65-2911, 65-4610, 66-1,155,
0358 66-1503, 74-715, 74-1108, 74-1405, 74-1503, 74-1609, 74-2704,
0359 74-2902a, 74-3903, 74-5805, 74-7009, 74-7506, 75-1119b, 75-1308
0360 and 75-1509 and acts amendatory of any of the foregoing includ-
0361 ing amendments by other sections of this act is to reimburse the
0362 state general fund for accounting, auditing, budgeting, legal,
0363 payroll, personnel and purchasing services, and any and all other
0364 state governmental services, which are performed on behalf of
0365 the state agency involved by other state agencies which receive
0366 appropriations from the state general fund to provide such ser-
0367 vices.

0368 (b) Nothing in this act or in the sections amended by this act
0369 or referred to in subsection (a) of this section, shall be deemed to
0370 authorize remittances to be made less frequently than is autho-
0371 rized under K.S.A. 75-4215.

0372 (c) Notwithstanding any provision of any section referred to
0373 in or amended by this act or referred to in subsection (a) of this
0374 section, whenever in any fiscal year such 20% credit to the state
0375 general fund in relation to any particular fee fund is \$200,000, in
0376 that fiscal year the 20% credit no longer shall apply to moneys
0377 received from sources applicable to such fee fund and for the
0378 remainder of such year the full 100% so received shall be
0379 credited to such fee fund, except as otherwise provided in
0380 subsection (d) of this section.

0381 (d) Notwithstanding any provision of K.S.A. 2-2609 and 2-
0382 3008 and amendments thereto or any provision of any section
0383 referred to in subsection (a) of this section, the 20% credit to the
0384 state general fund no longer shall apply to moneys received from
0385 sources applicable to the Kansas wheat commission fund, the
0386 Kansas corn commission fund, the Kansas grain sorghum com-
0387 mission fund and the Kansas soybean commission fund, as spec-

188 for each such fund by this subsection, and for the remainder
189 on a fiscal year the full 100% of the moneys so received shall be
190 credited to the appropriate fund of such funds, whenever in any
191 fiscal year:

192 (1) With respect to the Kansas wheat commission fund, such
193 20% credit to the state general fund in relation to such fund in
194 that fiscal year is equal to that portion of \$200,000 that bears the
195 same proportion to \$200,000 as the amount credited to the
196 Kansas wheat commission fund during the preceding fiscal year
197 bears to the total of the amounts credited to the Kansas wheat
198 commission fund, the Kansas corn commission fund, the Kansas
199 grain sorghum commission fund and the Kansas soybean com-
200 mission fund during the preceding fiscal year;

201 (2) with respect to the Kansas corn commission fund, such
202 20% credit to the state general fund in relation to such fund in
203 that fiscal year is equal to that portion of \$200,000 that bears the
204 same proportion to \$200,000 as the amount credited to the
205 Kansas corn commission fund during the preceding fiscal year
206 bears to the total of the amounts credited to the Kansas wheat
207 commission fund, the Kansas corn commission fund, the Kansas
208 grain sorghum commission fund and the Kansas soybean com-
209 mission fund during the preceding year;

210 (3) with respect to the Kansas grain sorghum commission
211 fund, such 20% credit to the state general fund in relation to such
212 fund in that fiscal year is equal to that portion of \$200,000 that
213 bears the same proportion to \$200,000 as the amount credited to
214 the Kansas grain sorghum commission fund during the preceding
215 fiscal year bears to the total of the amounts credited to the Kansas
216 wheat commission fund, the Kansas corn commission fund, the
217 Kansas grain sorghum commission fund and the Kansas soybean
218 commission fund during the preceding fiscal year; and

219 (4) with respect to the Kansas soybean commission fund,
220 such 20% credit to the state general fund in relation to such fund
221 in that fiscal year is equal to that portion of \$200,000 that bears
222 the same proportion to \$200,000 as the amount credited to the
223 Kansas soybean commission fund during the preceding fiscal
224 year bears to the total of the amounts credited to the Kansas

25 v it commission fund, the Kansas corn commission fund, the
26 Kansas grain sorghum commission fund and the Kansas soybean
27 commission fund during the preceding fiscal year.

28 Sec. ~~20~~ 21. K.S.A. 75-3170a is hereby repealed.

29 Sec. ~~21~~ 22. This act shall take effect and be in force from and
30 after its publication in the statute book.

Kansas Assn. of Osteopathic Medicine

A RECAP OF ISSUES REGARDING H.B. 3061. . .

1. This bill has been labeled an Osteopathic Assn. Bill. It is, in fact, a Board of Healing Arts recommendation to the Legislature (SEE COPY OF LETTER, ATTACHED, FROM SECRETARY OF BOARD TO REPRESENTATIVE LITTLEJOHN).
2. Contrary to testimony presented by the PT Association, the language of the Bill is what was recommended by the Physical Therapist Examining Committee of the Board of Healing Arts (See underlined section of letter attached). The language of the last sentence of the Bill is identical (minor revisor changes) to that approved. The language was accepted by the Board of Healing Arts. THE INITIAL BOARD OF HEALING ARTS LANGUAGE WAS MUCH MORE STRINGENT, AND WAS THE REASON THAT KAOM AGREED TO WORK OUT A COMPROMISE, WHICH IS EMBODIED IN 3061 AND WAS AGREED TO BY THE PT EXAMINING COMMITTEE--THE COMMITTEE ALSO RECOGNIZED THAT THERE WAS A PROBLEM THAT NEEDED ADDRESSING. KAOM DID NOT INSERT ITS OWN LANGUAGE. The other changes were required to make existing language consistent with the approved additional sentence.
3. The motion (see attachment) to add the last sentence of the bill was made by a conferee (in PT Examining Comm. meeting) who yesterday said she opposed her own motion.
4. WHAT IS MOST IMPORTANT IS THAT THE BOARD OF HEALING ARTS THINKS THERE IS A PROBLEM AND THAT THIS IS A REASONABLE WAY TO RESOLVE IT... A WAY THAT MAINTAINS THE INTEGRITY OF THE RELATIONSHIP BETWEEN RPT'S AND PT ASSISTANTS. The problme is not just unique in one county or one hospital, but characterizes situations in many rural settings.

STATE OF KANSAS

BOARD OF HEALING ARTS



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February 17, 1986

Marvin L. Littlejohn, Representative
Chairman, Public Health Committee
State Capitol, Room 425-S
Topeka, KS 66603

THIS IS THE MOTION OF THE BOARD OF HEALING ARTS ON THIS MATTER. IT WAS THIS THAT THE OSTEOPATHIC ASSOCIATION SUGGESTED WORKING WITH THE RPT'S TO SOFTEN THE REMEDY IN A WAY MORE PALATABLE TO THE RPT'S. THE RESULT WAS HB 3061.

Dear Representative Littlejohn:

The Kansas Board of Healing Arts at its last meeting on February 7th considered the problem concerning patients receiving physical therapy in rural areas. Specifically, the problem is whether or not a doctor could give orders for physical therapy to be carried out to a physical therapist assistant when the physical therapist is not available.

The following Board motion was passed: "The Board supports that doctors can issue orders to physical therapist assistants to do physical therapy without prior approval of the physical therapist".

The Physical Therapy Examining Committee to the Board met to consider this problem. Also present at the meeting were: Charlene Abbott, Executive Secretary; Susan Hanrahan, R.P.T.; and Harold Riehm of the Kansas Osteopathic Association. In an attempt to resolve this problem, the Physical Therapy committee supported the following change in K.S.A. 65-2914 Section C: "If the physical therapist is not available for immediate contact the physical therapist assistant can initiate treatment by the physician's order according to written protocol established by the physical therapist with minimum weekly review of patient care by the physical therapist".

I feel that this change in 65-2914 would have the support of the Healing Arts Board. [It does have the support of the Physical Therapy Examining Committee, the Board and Harold Riehm, Kansas Osteopathic Association, states that he would support such a change. I feel that all parties involved would feel that this is a reasonable solution to this problem in Western Kansas.]

PLEASE NOTE

THIS IS THE ENTIRE SUBSTANCE OF THE MOTION APPROVED BY THE PHYSICAL THERAPY PLANNING COMMITTEE. EXCEPT FOR MINOR CHANGES MADE BY REVISOR, IT IS THE EXACT LANGUAGE IN HB 3061. THE "SEE ALL PATIENTS INITIALLY" WAS DELETED IN THE BILL TO BE CONSISTENT WITH THIS LANGUAGE...AND WAS SUGGESTED BY THE PHYSICAL PLANNING COMMITTEE EVEN THOUGH NOT IN THE MOTION.

Attachment III
3/28/86 S. PH&W

Attachment III

Rep. Marvin Littlejohn
February 17, 1986
Page 2

I would very much appreciate your consideration of this matter. If I can be of any further assistance to you in this area, please do not hesitate to call on me.

Very sincerely yours,

A handwritten signature in cursive script that reads "Richard A. Uhlig" followed by a circled "R" or similar mark.

Richard A. Uhlig, D.O.
Secretary of the Board

RAU/sl

cc: Harold Riehm

MEMORANDUM

TO: MEMBERS OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

FROM: ALAN F. ALDERSON, ATTORNEY FOR THE KANSAS RECREATION AND PARKS ASSOCIATION

RE: HOUSE BILL NO. 2498 (AS AMENDED by HOUSE COMMITTEE)

DATE: MARCH 25, 1986

Mr. Chairman and members of the Committee, we are presenting you with written testimony on House Bill No. 2498 because we were unaware that the Bill had been set for hearing on Monday until it was too late to appear. It is my understanding that the occupational therapists are still urging this Committee to return to a licensure concept instead of the registration concept which was adopted by the House Committee Amendments.

In its present form, the recreational therapists represented by the Kansas Recreation and Parks Association have no strong opposition to the Bill, but continue to have concerns about the overlap in the definitions of services performed by occupational therapists and other specific modalities. However, inasmuch as the House Committee has removed the provisions of the Bill which prohibited the practice of what has been defined to be included in "Occupational Therapy", we are not sure that any problem is now presented by the amended version of the Bill. We will try to make a better determination of this fact prior to the next legislative session and request whatever amendments we believe are appropriate.

My main purpose in providing information to each member of the Senate Public Health and Welfare Committee at this time is simply to urge you not to return to a licensure concept as introduced in the original bill.

Attachment IV
3/28/86 S, PH&W

Attachment IV

Rather than going into lengthy detail about our reasons for opposing the original version of the Bill, I am simply attaching a copy of the testimony we presented in the House Committee for your review in the event a return to the original version of the Bill is proposed at the time you are to take action on the Bill. In that event, I would urge you to read the concerns expressed by the Recreation Therapists and other related groups in the House Public Health and Welfare Committee.

I would be happy to answer any specific questions that any member of this Committee might have concerning our opposition to the original Bill. Please feel free to call me at 232-0753.

MEMORANDUM

TO: MEMBERS OF THE HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE
FROM: ALAN F. ALDERSON, KANSAS RECREATION AND PARKS ASSOCIATION
RE: HOUSE BILL NO. 2498
DATE: February 24, 1986

Mr. Chairman and members of the Committee, I am Alan Alderson, attorney for the Kansas Recreation and Parks Association. Our membership consists not only of city, county and school district recreation commissions, but also a group of individuals known as recreation therapists. We appear here today in opposition to House Bill No. 2498. At the outset, I must tell you that I am not thoroughly acquainted with either the concept of credentialing, the practice of the various professionals in related therapeutic modalities, such as therapeutic recreation specialists, occupational therapists and the others, and I have with me today Bette Lopez, a recreation therapist who will be able to answer many of the specific questions you might have with regard to her practice or the training required therefor.

Obviously, the interest of the Kansas Recreation and Parks Association is in the fact that many of these individuals are employed by recreation commissions and programs. While we would like to be able to stand before you today and advise you that some amendments to House Bill No. 2498 would cure our concerns, we are unable to do so. The flaws in this bill run so deep that we firmly believe that it is impossible to merely amend the bill

to correct them. While I will attempt to point out some of our specific concerns in the bill, reference to particular portions of the bill should not be construed to mean we believe those portions can be fixed. Instead, we believe it is not possible to provide for the licensure and regulation of one segment of the therapeutic health care profession without substantially or completely undercutting the others. To allow the licensing of only occupational therapists is tantamount to de-credentialing all other related health care professionals.

House Bill No. 2498 defines "occupational therapy" as a "health care profession employed under the supervision of a person licensed to practice medicine and surgery in the therapy, rehabilitation, diagnostic evaluation, care and education of individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities or the aging process in order to maximize independence, prevent disability and maintain health." In the first instance, to require that all persons performing these functions practice under the supervision of a licensed physician or surgeon would have an immediate impact on the numerous agencies who now offer these services, but for whom it would not be feasible to have a physician on staff.

The definition of "occupational therapy" further enumerates several specific services as constituting occupational therapy. This enumeration overlaps significantly with the services provided by therapeutic recreation specialists, creative arts therapists and others. Section 4 of H.B. 2498 highlights the problem with such an enumeration. It would prohibit any person from practicing occupational therapy (as defined in

Section 2) unless such person was licensed under the act. It is simply not true that only occupational therapists are qualified to perform the services listed under the definition of "occupational therapy". While an occupational therapist may provide all of the services listed, they are not the only practitioners of a therapeutic modality trained and qualified in all of these areas. In fact, there are other therapeutic specialties actually better qualified to offer many of the listed services.

While I will not undertake to provide you with an extensive definition of a recreation therapist, I will tell you that a recreation therapist is generally an individual with a degree in recreation with a therapeutic emphasis or a degree in therapeutic recreation. We have provided you with a copy of a statement showing the degree requirements at both Kansas University and Kansas State University. A recreation therapist has a recognized vocation. Recreation therapists work in hospitals, many types of institutions and various recreation programs. We have also provided you with a copy of the philosophical position statement of the National Therapeutic Recreation Society to further enlighten you with respect to what a recreation therapist does. Bette Lopez, for example, is employed by Topeka Resource Center for the Handicapped, an independent living center, which operates under a federal grant. The cities of Lawrence and Topeka, for example, have a special populations department within their city recreation departments.

Recreation therapists do not study in the same areas as occupational therapists. Occupational therapists cannot do some of what recreation therapists do and recreation therapists cannot do what occupational

therapists do with regard to some functions. There is, however, a substantial overlap. Herein lies the major flaw of House Bill 2498.

We believe the basic conceptual flaw in the bill warrants adversely reporting it. However, we want to point out other concerns we have with specific provisions:

1. Lines 36 and 37 would qualify the occupational therapist to administer everything from psychiatric tests to medical tests normally administered by a physician. It is doubtful that this was the intent of your committee, but this would be the result.

2. "Homemaking" in line 39 should not be included. While there are certainly some occupational therapists who do daily living skills training in community-based settings, the vast majority of individuals doing this type of work are not occupational therapists and are not supervised by occupational therapists. There is no evidence to suggest that there are deficits caused by this situation in the quality of this training. Many occupational therapists, in fact, have been trained in the medical model system of services provision and would not be qualified to assist with homemaking training in the community.

3. Subsection (3) of Section 2 (lines 40-42) would need to be clarified by adding "or adaptive equipment for self-caring daily living skills such as feeding, dressing and hygiene".

4. All of Subsection (4) of Section 2 (line 43) should be deleted because this service is not adequately defined, and again, may be performed by many therapeutic modalities.

5. Subsection (5) of Section 2 should also be deleted unless it is made clear that these functions are not exclusively performed by occupational therapists.

6. Subsection (6) should also be deleted for the same reason, and in addition, it should be noted that occupational therapists have only 2 to 4 hours of recreation classwork, while recreation therapists have 18 to 24 hours plus an additional 10 to 15 hours of internship/field work. This is an example illustrating our statement that, in some instances, other therapeutic professionals are more qualified to perform those services which appear to be exclusively within the province of occupational therapists under this bill.

7. Subsection (7) should also be deleted for the same reasons previously stated.

While there are other specific provisions of the bill, that we believe would have to be substantially revised, we don't believe it is necessary to point out these individual provisions because we do not believe this bill can be made broad enough to encompass all of the therapeutic specialities. If House Bill No. 2498 were to be passed in its current form, we believe the following effects would be seen statewide:

1. Elimination of state civil service activity therapy positions and many essential services provided by these individuals in state facilities such as mental health hospitals, training centers for the mentally retarded and youth and adult centers for criminal offenders. Currently an activity therapist does not have to be an occupational therapist and does not have to be supervised by an occupational therapist. Under this legislation, one or the other of these two conditions would have to be the case.

2. Elimination of any community recreation programs for special populations not under the supervision of occupational therapists.

Occupational therapists are not qualified by training or classical experience to supervise a community recreation program. Under this legislation they would nonetheless be required to do so.

3. Elimination of all recreation and leisure services in long-term care facilities such as intermediate care facilities for the mentally ill, intermediate care facilities for the mentally retarded, intermediate care facilities for the aged, and juvenile and adult detention facilities. Again, under this legislation, occupational therapy supervision would be required and is not available or necessary.

4. Elimination of academic preparation programs in the private and public higher education institutions in Kansas in the fields of recreation therapy, creative arts therapy and horticulture therapy. Under occupational therapy supervision as required by this bill, there would be few professional level positions available in areas such as therapeutic recreation, art, dance, drama, music, industrial, vocational and horticultural therapy; therefore, the need for persons trained in these professions in Kansas would be virtually eliminated.

5. Community programs oriented to maintaining individuals outside of institutions, at cost benefit to the taxpayers, would be severely limited in the repertory of service offered because many of these services would require occupational therapy supervision.

6. Elimination of all Rehabilitation Teacher for the Blind and Instructor for the Blind, positions in Kansas or the replacement of their supervisors with occupational therapists. The legislation would require

that all such positions be filled with occupational therapists or that those supervising such positions be occupational therapists. If this is to be done, however, then it will, of course, be necessary for the occupational therapists involved to immediately learn such specialties as teaching Braille or mobility and orientation. This is unrealistic.

In short, if this bill is passed in its current form, it will be necessary for the legislature to appropriate additional monies for the state institutions in order to provide for the new occupational therapist positions that would have to be created in order to adequately supervise the recreation therapy programs.

I will be happy to answer any questions I can or see that they are answered by Bette Lopez. We urge you to report House Bill No. 2498 adversely.