

Approved 2-10-87  
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 February 2, 1987 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Legislative Research  
Norman Furse, Revisor of Statutes Office  
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Tom Bell, Kansas Hospital Association  
Lawrence T. Buening, Jr., General Counsel, Kansas State Board of Healing Arts  
Carolyn Bloom, R.P.T., Vice President, Physical Therapy Examining Committee  
of the Kansas Board of Healing Arts  
Susan Hanrahan, R.P.T., Legislative Chairperson, Kansas Chapter American  
Physical Therapy Association  
Ann Victoria Thomas, University of Kansas Medical Center  
Elizabeth Taylor, Occupational Therapy Association  
Jerry Slaughter, Executive Director, Kansas Medical Society  
Mike Hinds, Kansas Respiratory Therapy Association  
Ronald K. Spangler, Director, Institutional Research and Planning, University  
of Kansas Medical Center  
Wayne Probasco, Executive Secretary, Kansas Podiatric Medical Association  
Don Strohle, Attorney for Physician Assistants  
Theodore F. Fay, Commissioner of Insurance Office  
Staff Memo written to committee members

Others attending: See attached list

Tom Bell appeared before the committee requesting a bill which would make an exception and amend K.S.A. 65-5603 and allow information regarding treatment to be revealed when needed for litigation for the collection of bills for professional services rendered by a treatment facility. (attachment 1)  
Senator Morris made the motion to introduce the bill requested by Tom Bell.  
Senator Francisco seconded the motion and the motion carried.

SB-35 - An Act relating to the state board of healing arts; concerning the regulation of the practice of certain branches of the healing arts and related health care specialities by the board;

Lawrence T. Buening, Jr., appeared before the committee and presented written testimony. Mr. Buening stated that the healing arts board opposed mandatory biennial renewal of licenses and registrations. A major concern is that of the developing relationship with the insurance department to identify practitioners who have failed to comply with the requirements imposed by the Health Care Insurance Stabilization Act. The committee was urged to modify provisions of SB-35 and return to the present system of annual renewal of licenses and registrations. Other concerns relating to physician assistants are detailed in attachment 2.

Carolyn Bloom appeared before the committee and presented written testimony concerning SB-35. Ms. Bloom stated the Physical Therapy Examining Committee would support SB-35 providing two changes were made. One change would allow a physical therapist who did not pass the examination for physical therapists to make application to take the test for a physical therapist assistant. The second change concerns the removal of the date for the grandfathering clause but retention of the clause itself. (attachment 3)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 526-S Statehouse, at 10:00 a.m./~~p.m.~~ on February 2, 1987.

Susan Hanrahan testified and presented written testimony relating to the practice of physical therapy in SB-35. The group supported all changes made in their practice but would also support the recommended changes proposed by the Physical Therapy Examining Committee of the Board of Healing Arts. (attachment 4)

Ann Victoria Thomas testified and presented written testimony dealing mainly with Section 19 of SB-35. This section deals with statute requirements and various scholarships. It is felt that it would be more appropriate to allow individuals who graduate mid-year or who have not yet determined a specialty to begin an association with a physician and complete their obligation under that same physician rather than being forced to restrict themselves to a critically medically underserved area. (attachment 5)

Elizabeth Taylor testified that her organization had no problem with SB-35. She did remind the committee that the occupational therapy association was just beginning their registration due to the fact that their practice act was only recently adopted.

Jerry Slaughter testified and presented written testimony on SB-35. Mr. Slaughter stated that the Kansas Medical Society generally supports most of the provisions as they are intended to be cleanup amendments. However, his organization opposes the move to biennial licensure because it will create extreme difficulties in administering the Health Care Stabilization Fund law. (attachment 6)

Mike Hinds testified and presented written testimony concerning SB-35. Mr. Hinds stated that the KRCS supports SB-35 but propose an amendment to lines 71 and 165 to include Respiratory Therapists. Another amendment would be to continue the Respiratory Advisory Council for 5 years with a possible "sunset" clause. (attachment 7)

Ron Spangler testified and presented testimony concerning SB-35. The major area of concern of the University of Kansas Medical Center is that of dealing with biennial licensure and registration renewal of doctors of medicine and osteopathy. This change would make it difficult to secure necessary data that would be of a current nature, also it would be difficult to assess specific geographic areas as regards physician manpower at any given time and in general would make obtaining needed data more difficult. (attachment 8)

Wayne Probasco testified concerning SB-35. It was stated that the podiatrists have had a different disciplinary procedure and supported using one procedure for all organizations. They also supported the conformity area of the bill.

Don Strohle testified and presented written testimony concerning SB-35. Mr. Strohle stated that they supported the board's intent to define what the practice of physician assistants would be. The disciplinary action area is intended to explicitly state that PA's can and should be disciplined. This was not clear with the old language. The position that PA's have a dependent practice was re-affirmed by Mr. Strohle. (attachment 9)

Theodore F. Fay stated that the Kansas Insurance Department would prefer to retain the licensing provisions as they now stand rather than the biennial licensure.

A memorandum from staff was handed to committee members to set out the policy issues in SB-35. (attachment 10)

The meeting adjourned at 10:55 a.m. The next committee meeting will be at 10:00 a.m. February 3, 1987.

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-2-87

(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

C-

TED FAY

~~2/2/87~~ KID

JERRY SLAUGHTER

KS MEDICAL SOCIETY

Tom Bell

Ks. Hosp. Assn.

Susan Daniels

KS Phys Ther Assoc

Gary Robbing

KS Optometric Assn.

FRANCES KASTNER

KAPTA

Wayne Probaseo

Ks Podiatric Med. Assn.

Ron Springer

UNW. KANSAS MED. CENTER

Ann Victoria, Thomas

HAROLD KEAM

Ks Assn Osteopathic Medicine

Marilyn Bradt

Nursing  
Vns. for Improvement of Homes

Elizabeth C. Taylor

Ks Occupational Therapy Assn

Athena Throck

KANSAS NARAL

KETHAN R LANDIS

CHRISTIAN SCIENCE COMMITTEE  
ON PUBLICATION FOR KANSAS

Rebecca Censhaw Topeka

KSOS

Terr Rossler

KSNA

Mike Hinds

KRCS

Larry Swearing

Bd of Healing Arts.

Paul Hill

Kansas Academy of Phys. Assn

AN ACT concerning the use of information regarding a patient's treatment at a psychiatric treatment facility in litigation for the collection of bills for the professional services rendered by a treatment facility; amending K.S.A. 65-5603 and repealing the existing sections.

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

Section 1. K.S.A. 65-5603 is hereby amended to read as follows: K.S.A. 65-5603. (a) The privilege established by K.S.A. 65-5602 shall not extend to:

(1) Any communication relevant to an issue in proceedings to involuntarily commit to treatment a patient for mental illness, alcoholism or drug dependency if the treatment personnel in the course of diagnosis or treatment has determined that the patient is in need of hospitalization;

(2) an order for examination of the mental, alcoholic, drug dependency or emotional condition of the patient which is entered by a judge, with respect to the particular purpose for which the examination is ordered;

(3) any proceeding in which the patient relies upon any of the aforementioned conditions as an element of the patient's claim or defense, or, after the patient's death, in any proceeding in which any party relies upon any of the patient's conditions as an element of a claim or defense;

(4) any communication which forms the substance of information which the treatment personnel or the patient is required by law to report to a public official or to be recorded in a public office, unless the statute requiring the report or record specifically provides that the information shall not be disclosed;

(5) any information necessary for the emergency treatment of a patient or former patient if the head of the treatment facility at which the patient is being treated or was treated states in writing the reasons for disclosure of the communication and makes such statement a part of the treatment or medical record of the patient;

(6) information relevant to protect a person who has been threatened with substantial physical harm by a patient during the course of treatment, when such person has been specifically identified by the patient, the treatment personnel believes there is substantial likelihood that the patient will act on such threat in the reasonable foreseeable future and the head of the treatment facility has concluded that notification should be given. The patient shall be notified that such information has been communicated;

(7) any information from a state psychiatric hospital to appropriate staff of the department of corrections whenever patients have been administratively transferred to a state psychiatric hospital pursuant to the provisions of K.S.A. 75-5209 and amendments thereto;

(8) any information to the patient or former patient, except that the head of the treatment facility at which the patient is being treated, or was treated may refuse to disclose portions of such records if the head of the treatment facility states in writing that such disclosure will be injurious to the welfare of the patient or former patient;

(9) any information to any state or national accreditation, certification or licensing authority, or scholarly investigator, but the head of the treatment facility shall require, before such disclosure is made, a pledge that the name of any patient or former patient shall not be disclosed to any person not otherwise authorized by law to receive such information; ~~or~~

(10) any information to the Kansas advocacy and protective services for the developmentally disabled, inc. which concerns individuals who reside in a treatment facility and do not have legal guardians and which is required by federal law and federal rules and regulations to be available pursuant to a federal grant-in-aid program; or

) (11) any legal proceeding for collection of a bill for professional services rendered by a treatment facility.

(b) The treatment personnel shall not disclose any information subject to subsection (a)(3) unless a judge has entered an order finding that the patient has made such patient's condition an issue of the patient's claim or defense. The order shall indicate the parties to whom otherwise confidential information must be disclosed.

Section 2. K.S.A. 65-5603 is hereby repealed.

Section 3. This act shall take effect and be in force from and after its publication in the statute book.

TESTIMONY TO THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

RE: SENATE BILL NO. 35

PRESENTED BY: LAWRENCE T. BUENING, JR., GENERAL COUNSEL  
KANSAS STATE BOARD OF HEALING ARTS

The Healing Arts Act was enacted by the 1957 Legislature and over the last 30 years many of the original statutes have been repealed or amended numerous times. This has created a patchwork of statutes which have very little logical sequence. Other laws governing the various professions regulated by the Board are similar. The Podiatry Act is particularly illustrative since the statutes regulating podiatrists are actually located in 2 separate volumes of the statute books.

With the approval of the Special Committee on Ways and Means, the Board Staff spent considerable time working with the Legislative Research Staff and the Revisor of Statutes office to assist in the drafting of Senate Bill No. 35. Our goal as Board Staff was to create, to the greatest extent possible given the different disciplines involved, some continuity in the various statutes. This continuity is somewhat reflected in SB-35 and is particularly noticable in the revisions made to the statutes which deal with the renewal of licenses and registrations for the various professions.

The Board as a whole considered a rough draft of SB-35 during its meeting on December 6, 1986. At that time, the Board took a position regarding the mandatory requirements contained in SB-35 of biennial renewal of all licenses and registrations for all professions. The Board took the position that it opposed mandatory biennial renewal of licenses and registrations. A number of concerns were raised by the Board as to this issue. The first is that the Board has been developing a working relationship with the Insurance Department to identify practitioners who have failed to comply with the requirements imposed by the Health Care Insurance Stabilization Act. The 1986 HB-2661 which became effective July 1, 1986, imposes licensees under the Healing Arts Act to submit to the Board evidence that professional liability insurance is being maintained and that the annual premium surcharge has been paid. The Board is extremely concerned that renewal on only a biennial basis rather than the present annual basis will serve to frustrate the Board's efforts in this area. Secondly, K.S.A. 1986 Supp. 76-375 mandates that the University of Kansas Medical Center determine critically medically underserved areas on an annual basis. The Medical Center obtains this data solely from information provided by licensees on our Board's renewal forms. Biennial renewal of M.D.s would make it extremely difficult for the Medical Center to obtain data necessary to fulfill its statutory obligation. Also, the Board is concerned that biennial renewal would increase the likelihood of the Board losing track of individuals, given the nature of today's mobile society. Finally, the Board often utilizes the renewal process to apprise individuals it regulates of statutory changes which may affect their practice. This is particularly useful for those licensees (M.D.s, D.O.s, D.C.s and D.P.M.s) whose licenses presently expire annually on June 30. The Board felt that the only real advantage of going to a biennial renewal system would be the possibility there would be some decrease in administrative costs such as printing of renewal forms. However, the Board adamantly felt the disadvantages to biennial renewal far outweighed its advantages. Therefore, the Board took the position to oppose biennial renewal and to urge this Committee and the Legislature to strongly consider modifying the provisions of SB-35 to return to the

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*attachment 2*

present system of annual renewal of licenses and registrations.

Due to the complexities and the Board's lack of knowledge as to the effect of the various changes made by SB-35 in the day-to-day operation of Board business, the Board has not taken a position on any other provisions within SB-35 except as it relates to physician's assistants, which will be discussed later in this testimony. However, I did want to advise this Committee the concerns which still exist among Board staff regarding particular provisions of this Bill.

Section 9(b) at page 10. Lines 0378 and 0379 should be changed to enable the Board to charge a fee to retake the Podiatry Examination. At present, the Podiatry Examining Committee prepares and administers the Podiatry Examination. Therefore, there has not been any substantial out-of-pocket costs to the Board in administering this examination. However, by the end of 1987, it is expected that a National Standardized examination will be available which the Board would then intend to utilize in lieu of the State Examination now prepared by the Podiatry Examining Committee. If this occurs, the Board would be required to purchase the examination from the entity that prepares the examination. As a result, the Board would have substantial costs for giving examinations to individuals who retake the exam. The Board should have the ability to charge the applicant the costs of the examination together with the costs of its administration.

Section 14(a) at page 17. Consideration should be given to amending the last sentence of this subsection commencing at line 0033 and ending on line 0037. Revocation of a license requires formal adjudicative proceedings under the Administrative Procedures Act. Similar statutes dealing with all other professions regulated by our Board simply state that the Board shall not renew the license if proof of continuing education is not provided as required. For purposes on continuity and for ease of administration of the statutes, this sentence should be modified to coincide with parallel statutes dealing with the other professions.

Section 24 at page 28. The Board is presently a defendant in a lawsuit in Federal Court in Wichita regarding an Order for Examination issued pursuant to subsection (j) which commences at line 429. A Temporary Restraining Order is presently in effect since the Federal Judge felt that subsection (j) may serve to deny the licensees due process under the United States Constitution. It is felt that the sentence commencing at line 439 could be amended to solve the possible unconstitutionality of the statute but would not have any adverse impact on the ability of the Board to order examinations and take appropriate adjudicative action should the licensee fail to comply with any such order.

Section 35(a)(2) at page 41. The Board at its meeting in December supported the deletion of this subsection from the statutes regarding physicians' assistants. Specifically, this would mean a deletion of that portion of the Bill set forth on lines 0328 and 0329. According to the information provided to the Board by the Physician's Assistants Ad Hoc Committee, it is now universally required that in order to enter a physician's assistant training program that the individual have attained a college degree. Therefore, it was felt to be unnecessary that applicants for physicians' assistant registration provide proof of graduation from high school.

Section 35(a)(3) at page 41. Also at its meeting in December, the Board took formal action to support the position that the provisions contained in lines 0338 through 0341 be deleted. It is the Board's understanding that the Armed Forces have established their own physician's assistant schools which are accredited and that there are no physicians' assistants serving in the Armed Forces who have not graduated from an accredited school. Therefore, there would be no need to allow an individual to be registered as a physicians' assistant through experience only.

Section 43(a) at page 45. Numerous concerns regarding the practice of physicians' assistants have been brought to the attention of the Board over the last several years. Instances regarding physicians' assistants prescribing of both controlled and noncontrolled substances, physicians' assistants practicing in satellite clinics with almost nonexistent attendance by the responsible physician at these clinics, physicians' assistants employed in hospital facilities who have rare contacts with their responsible physician and physicians' assistants who have incorporated and established their own clinics and hired a responsible physician are among these issues. Section 43(a) which commences at page 45 on line 0476 does not appear to adequately address these issues. At its Board meeting on December 6, the Board did take a position regarding these various issues. From various comments which have been made to the Committee by the Legislative Research Staff, it is of concern whether the original legislative intent was to allow physicians' assistants to conduct activities in large extent outside of the supervision and guidance of their responsible physician. If it is the legislative intent to allow such activities, then it is the position of the Board that it should have specific authority to place limits on such activities by appropriate administrative rules and regulations. Therefore, the Board at its meeting on December 6 took a position in which it made numerous recommendations regarding the practice of physician assistants. These recommendations are attached hereto and marked as "Exhibit A". The present statutory definition of "direction and supervision" does not appear to be extremely clear as to the role of the physicians' assistant and the responsible physician. Furthermore, there does not appear to be clear authority for the Board under present statutes to adopt rules and regulations to define such. Thus the Board would urge this Committee's consideration of making either specific statutory amendments or giving the Board specific authority to adopt rules and regulations to more clearly define the scope of practice of the physicians' assistants and the duties and responsibilities of their responsible physician.

Section 46(c)(3) at page 49. The Physical Therapy Examining Committee has recommended that that portion of this subsection commencing at line 0007 be deleted. This would result in physical therapy assistants being required to obtain formal education rather than qualifying for registration through training and experience alone.

Two final comments should be made. Sections 15 and 30 of SB-35 make the statutory maximums for the various fees involving licensees regulated by the Board identical. However, SB-35 does not make the statutory maximums for each of the 4 registration categories identical. It would seem that it would be appropriate to have the statutory maximums for all licensed individuals to be the same and also to have the statutory maximum for fees for all professions which the Board registers to likewise be the same. Therefore, please consider amendments to Section 34(f), 51(b), 62(a) and 65(a) which would make the statutory maximum for the 4 registration pro-



Testimony RE: SB-35  
February 2, 1987  
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fessions regulated by our Board to be the same. It is difficult to understand why one profession registered by our Board would have different statutory maximums regarding the fees for initial registration, renewal, etc. than another profession which is likewise registered.

The other comment is that both the Occupational and Respiratory Therapy Advisory Councils with which we have been meeting in order to establish the necessary procedures to register these individuals pursuant to 1986 Legislation have indicated a very strong desire that those professions have temporary permits. Therefore, please consider adoption of Section 61(b) and 64(d) of the Bill as they presently read.

In conclusion, we do wish to advise that the Board and the Board Staff is strongly in favor of the enactment of SB-35 as it exists coupled with the changes above suggested. If the Bill with these proposed changes was enacted, it is felt that the day to day activities and conduct by the Board Staff could be greatly streamlined and that efforts presently being exerted to simply understand what the law is regarding a particular profession can be devoted to areas of quality control.

Thank you very much for allowing me to make this presentation. I would be happy to answer any questions the committee members might have.

LTB/sl

Attachment

## BOARD OF HEALING ARTS

OFFICE OF

RICHARD A. UHLIG, D.O., SECRETARY  
 CHARLENE K. ABBOTT, EXECUTIVE SECRETARY  
 LAWRENCE T. BUENING, JR., GENERAL COUNSEL  
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## MEMBERS OF BOARD

FORREST W. POMMERENKE, M.D., PRESIDENT, DE SOTO  
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 DAVID WAXMAN, M.D., LENEXA  
 JOHN P. WHITE, D.O., PITTSBURG  
 REX A. WRIGHT, D.C., TOPEKA

"EXHIBIT A"

MEMORANDUM

DATE: December 22, 1986

SUBJECT: RECOMMENDATIONS RELATING TO THE PRACTICE OF PHYSICIAN'S ASSISTANTS APPROVED BY THE BOARD OF HEALING ARTS AT ITS MEETING ON DECEMBER 5, 1986

PREPARED BY: Lawrence T. Buening, Jr., General Counsel

The following is the Board action taken on December 5, 1986, regarding the practice of physician's assistants. This action was taken after the Board considered various issues at its meeting on October 18 and, as a result appointed a special committee to study the same, which committee met on November 15, 1986. The action taken by the Board is as follows:

1. INTERIM LEGISLATIVE STUDY BILLS. That draft bill proposal No. 2, as it related to PAs, made to the Special Legislative Committee on Ways and Means by Mr. Jim Wilson of the Revisor of Statutes Office on November 13 be approved in its entirety, with the exception that the statutory maximums for all fees of registrants of the Board be made identical. In this regard, the legislature should be informed when it considers the comprehensive bill modifying the Healing Arts Act that the Board approves of and supports the following legislative changes:
  - a. That K.S.A. 65-2896a(a)(1) be amended to delete the requirement that PAs provide proof of high school graduation at the time of submitting an application for registration.
  - b. That K.S.A. 65-2896a(a)(2) be amended to delete the ability of PAs to become registered by solely acquiring experience while serving in the armed forces.
  - c. As to the grounds for discipline, the Board is of the opinion that acts, if committed by a licensee pursuant to K.S.A. 65-2836 and 2837 would constitute grounds for revocation, suspension or other action against a license, also constitute grounds for action against a PA's registration. However, the Board feels it would be more appropriate to have rules and regulations relating to discipline rather than statutory changes. This would be more consistent with physical therapy (K.S.A. 65-2906(a) and New Sections 10 of OT and RT Acts. Therefore, it was the Board's action that draft proposal No. 2, as it related to PAs, submitted to the Legislative Committee on

November 13 be approved in its original form with the exception of modifying the section relating to discipline to simply provide the Board authority to adopt rules and regulations and that the bill which will be prefiled for the 1987 Legislative Session be modified to include these changes prior to final adoption by the legislature and enactment into law.

2. PRESCRIBING. That PAs should continue to have the ability to prescribe, dispense or administer medications under an agreement made with the PA and the responsible physician with the responsible physician to be solely in charge of defining the type, amount and purposes for which the drugs should be utilized. PROVIDED, HOWEVER, that any statutory changes needed should be sought to enable the Board to adopt rules and regulations which would provide essentially as follows:

a. Any prescription originated by a PA without a direct order from the responsible physician, whether written or oral, shall contain all information required by the Healing Arts Act, the Pharmacy Act and the Controlled Substances Act. In addition, the name and the address and phone number of the RPA's responsible physician should be provided and, if in the form of a written prescription, such information should be clearly and legibly indicated on the prescription order. A written prescription order shall also contain the signature of the PA and the registration number of the PA issued by the Board of Healing Arts.

b. The responsible physician shall provide adequate supervision of the PA in accordance with rules and regulations of the Board, as hereinafter more specifically defined, which adequate supervision shall include a periodic review of the PA's practice methods and specifically, how such practice methods relate to the utilization of medications. Documentation of such reviews should be maintained by the responsible physician, either in the patient's charts, or otherwise.

c. The responsible physician shall, within 10 days of assuming the responsibility of a PA, notify the Board of all drugs, or types or classifications which the physician has prohibited the PA from utilizing and further, the responsible physician shall notify the Board within 10 days of any changes in this authorization or prohibition.

d. The Board shall periodically provide to the Pharmacy Board a listing of PAs actively registered and their responsible physicians, as well as any prohibitions provided by the responsible physicians regarding medication authority and any changes thereto.

e. The prescribing, administering or dispensing of Schedule II substances by a PA shall be limited to a 72-hour supply and shall not be reauthorized to the patient without the express authority of the responsible physician.

f. Uncontrolled substances and substances listed in Schedule III-V shall only be prescribed, dispensed and administered by a PA in the same manner as that done by the responsible physician and in accordance with the agreement between the PA and the responsible physician.

3. SUPERVISION. Statutory changes should be sought or the Board should be granted express authority to adopt rules and regulations adopting minimum

standards of "direction and supervision" as presently defined in K.S.A. 65-2897a to provide that "adequate supervision" must include, but not necessarily be limited to, the requirement that the responsible physician shall periodically review the performance of the PA, which review shall include patient charts and the medications provided to patients.

4. ALTERNATE PRACTICE SITE CLINICS. For clinics staffed primarily by a PA separate and apart from the primary practice site of the responsible physician, the following statutory changes should be sought or the Board should adopt rules and regulations which provide:

- a. Except in an area of Kansas which is determined to be critically medically underserved pursuant to K.S.A. 76-375 and amendments thereto, no practice site should be established to be staffed primarily by a PA without the express consent and approval of the Board.
- b. The PA who will staff such "alternate" practice site must have previously actively engaged in at least one year of family or general practice and must also, prior to staffing such practice site, spend a minimum of 80 hours under the direct auspices of the responsible physician at the primary site of the responsible physician.
- c. The responsible physician must visit the "alternate" practice site at least weekly in order to provide "adequate supervision" as hereinabove defined.
- d. The responsible physician shall periodically personally see regular patients to the "alternate" practice site.
- e. The responsible physician or his designee shall be readily accessible for contact by the PA at all times during which the PA is or may reasonably be expected to perform professional services.

5. SCOPE OF PRACTICE GENERALLY; MISCELLANEOUS. Statutory changes should be sought or the Board should have the authority to adopt rules and regulations to modify the scope of authority of PAs in the following respects:

- a. The responsible physician of a PA must be actively engaged in the practice of medicine and surgery in the State of Kansas at least 20 hours per week.
- b. The duties and responsibilities delegated to the PA should be limited in scope to the normal, customary and prevalent scope of practice of the responsible physician.
- c. For patients seen by the PA in a medical care facility or otherwise outside the usual practice site of the responsible physician or the PA, the responsible physician must review the patient chart and document such review within 48 hours of the PA seeing such patient.

LTB/sl

ADDENDUM TO TESTIMONY

RE: SENATE BILL No. 35

PRESENTED BY: LAWRENCE T. BUENING, JR., GENERAL COUNSEL  
KANSAS STATE BOARD OF HEALING ARTS

Section 23 at page 27. In preparing for this testimony and in again reviewing SB-35, it was noted that I failed to suggest a proposed change which is vitally important to the Board. Lines 0385 and 0386 on page 27 amend current law and would enable applicants to retake examinations for licensure without payment of an additional fee. This proposed change would have disastrous fiscal results to the Board. At present the Board administers the FLEX examination to M.D. and D.O. applicants who have not otherwise passed an examination acceptable to the Board. Depending on the circumstances, an applicant may need to take Part I, Part II or both Parts I and II to qualify for licensure. The costs of these are as follows:

Part I and II . . . .	\$ 365.00
Part I only . . . .	190.00
Part II only . . . .	240.00

The failure rate for these examinations is relatively high. As a result, each time the test is administered, the majority of those setting for the examination are re-taking it. Therefore, the change to Section 23 as set forth at lines 0385 and 0386 on page 27 is strongly opposed by the Board.

PHYSICAL THERAPY EXAMINING COMMITTEE  
OF THE  
KANSAS BOARD OF HEALING ARTS

FEBRUARY 2, 1987

Carolyn Bloom, R.P.T.  
Vice-President  
612 Ash  
Eudora, Kansas 66025  
(913)354-5113 (work)

Senate Testimony on SB # 35

Mr. Chairmen and Members of the Public Health and Welfare Committee:

My name is Carolyn Bloom and I represent the Physical Therapy Examining Committee as Vice-President of the Committee. I am addressing SB #35 relating to the State Board of Healing Arts and health care specialties under regulation of the Board.

Our Committee will support this bill with two changes.

1. On page 48, line 0597, after the word 'program', add the words "of physical therapy or physical therapist assistant education". This will eliminate the need for the phrase "for physical therapist assistants" in lines 0597 and 0598.
2. On page 49, lines 0007, 0008, and 0009, eliminate the phrase "or is determined by the state board of healing arts to possess equivalent qualifications based on training and experience".

*S.P.#4W  
2-2-87  
attachment 3*

Lines from 0597 to 0010 would read as follows: (3) has successfully completed a program of physical therapy or physical therapist assistant education in a school approved by the state board of healing arts, may make application for examination on forms furnished by the board.

The rational for the additional words in line 0597 is that a graduate of a physical therapy school who did not pass the examination for physical therapists has asked to make application to take the test for a physical therapist assistant.

The rational for the elimination of the words in lines 0007-0009 is that this particular language was approved in 1973 for physical therapist assistants when this group was added to the practice of physical therapy.

This language allowed existing practitioners to "grandfather" into that practice by a particular date using their work experience and on the job training. In 1983 when the Physical Therapy Practice Act was revised in the Legislature, the date was removed for "grandfathering" into the profession, but the remainder of the clause was not eliminated.

This has become a problem. The Physical Therapy Examining Committee has continued to receive requests of applications for examination by persons who have not graduated from a school for physical therapist assistants. This is not the intent of the Physical Therapy Practice Act.

Eliminating this phrase will ensure that candidates applying to sit for the examination will have successfully completed approved academic training in the field of Physical Therapy.

Thank you for your consideration and potential support of these two changes to this bill. I will be happy to answer any questions.



KANSAS CHAPTER  
AMERICAN PHYSICAL THERAPY ASSOCIATION

February 2, 1987

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Testimony on Senate Bill #35

Mr. Chairman and Members of the Public Health and Welfare Committee:  
My name is Susan Hanrahan and I represent the Kansas Physical Therapy Association. My testimony today is in regards to SB#35 which contains (on pages 46-56) the practice of Physical Therapy.

Our Association supports all of the changes that have been made in our practice within the bill so I do not even need to address those. We also support the recommended changes proposed by the Physical Therapy Examining Committee of the Board of Healing Arts. We feel the changes are necessary to alleviate existing problems.

No other organizations or health groups have contacted me about making other changes in SB#35 regarding the practice of Physical Therapy. Please note that our Association does not support any other practice act changes at this time if they so happen to be proposed after I speak today.

If you have any questions, I would be happy to address those.

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Testimony before the Senate Committee  
on Public Health and Welfare --- S.B. 35

February 2, 1987

Ann Victoria Thomas

for the University of  
Kansas Medical Center

My comments concern Section 19 of S.B. 35. This section would amend K.S.A. 65-2811a to provide that graduates of medical school who have not yet engaged in a residency program may obtain a special permit to practice medicine until entering a residency program or for one year, whichever time is shorter, under the sponsorship of a physician practicing in a critically medically underserved area. The statute currently requires that the physician practice in a rural community.

We support the amendment of the term "rural community" and we believe that the terminology used in the statute should conform with that used in the medical scholarship act (K.S.A. 76-373 et seq.). We suggest, however, that the designation should include both critically medically underserved and medically underserved areas as they are specified in K.S.A. 76-375.

This statute was enacted in February, 1978. Two months later, the medical scholarship bill was enacted. At that time, it divided Kansas into medically underserved areas and the rest of the state. It was not until 1982 that the term "critically underserved" was inserted into the statute.

Under K.S.A. 76-375 persons holding Type I scholarships must repay their obligation by serving in a Service Commitment Area I. That area is now defined to include both medically underserved and critically medically underserved areas. Most persons participating in the scholarship program hold Type I scholarships. Those individuals who have taken advantage of K.S.A. 65-2811a in the past fall into two categories. The first contains those who

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graduate in mid-year and cannot yet enter a residency program. The second contains those who have not yet decided upon a specialty. We believe it is more appropriate to allow those individuals to practice with a physician who is in either a medically underserved or critically medically underserved area. Because most of these graduates, if they have participated in the scholarship program, will have an obligation to practice in either area, it makes more sense to allow them to begin an association with a physician and a community in the entire location from which they can serve their repayment obligation after completing a residency, rather than to restrict them to only the critically medically underserved area.

We suggest the following amendment to lines 0289 and 0290 of Section 19: "under K.S.A. 76-375 and amendments thereto to be medically underserved or critically medically underserved; and"

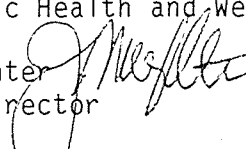
Thank you for your attention to this matter.



# KANSAS MEDICAL SOCIETY

1300 Topeka Avenue · Topeka, Kansas 66612 · (913) 235-2383

February 2, 1987

TO: Senate Public Health and Welfare Committee  
FROM: Jerry Slaughter   
Executive Director  
SUBJECT: Senate Bills 33, 34 and 35

The Kansas Medical Society appreciates the opportunity to submit a brief statement about Senate Bills 33, 34 and 35.

## S.B. 33; Composition of the Kansas State Board of Healing Arts

We are opposed to S.B. 33, because it reduces the representation of doctors of medicine from five to four on the board. We have a long standing policy which advocates proportional representation among the various disciplines licensed, and under the current arrangement 33% of the total board hold degrees of doctor of medicine, and under the arrangement contemplated in S.B. 33 the representation slips to about 30%. We do not oppose the addition of members of the public, but feel that the full compliment of the various disciplines should be retained.

We do not oppose some greater representation for members of the allied health professions registered by the board, but would encourage the committee to consider looking into a different alternative, such as a separate board or boards for those professions.

Our overall recommendation would be to not adopt S.B. 33, or in the alternative, we would recommend that the whole issue of composition and representation of allied health professionals be referred to an interim study for a more thorough discussion.

## S.B. 34; Establishing an Executive Director of the Board of Healing Arts

We strongly support the concept of a full-time executive director for the Board of Healing Arts. We supported the concept last year in similar legislation, and we feel it will provide for better administration of the growing and more complex board. It would be advantageous if the new executive director was a physician with proven management experience. We believe such a person would be ideal for this position.

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Senate Public Health and Welfare Committee  
Senate Bills 33, 34 and 35  
February 2, 1987  
Page Two

S.B. 35; Biennial Licensure; Podiatry Amendments and Physician Assistants Amendments

The Kansas Medical Society generally supports most of the provisions in S.B. 35, as the majority are generally intended to be cleanup amendments. However, we oppose the move to biennial licensure, because it will create extreme difficulties in administering the provisions of the Health Care Stabilization Fund law. That law requires all licensees of the board to maintain a current policy of professional liability insurance, which must be verified by the Insurance Commissioner's office in conjunction with the Board of Healing Arts annually. We would urge the committee to disapprove the portion of the bill concerning biennial licensure.

I appreciate the opportunity to offer these comments and would be happy to respond to any questions. Thank you.

JS:nb



**Kansas  
Respiratory  
Therapy  
Society**

15th and State / Emporia, Kansas 66801

Kansas Respiratory Care Society  
Testimony on SB35

The KRCS supports SB35, however we propose an amendment on lines 71 and 165 to include Respiratory Therapists. Our reasoning is that we are a registered health care provider by the State of Kansas and render health care in the situations outlined in SB-35.

The KRCS would also propose an amendment in Sec. 64,65,66,67,68 to continue the Respiratory Advisory Council for 5 years with a possible "sunset" clause.

The KRCS believes it is necessary to continue this council for administrative and disciplinary functions distinct to our profession.

Thank you for your time.

Thank You,

Mike Hinds, RRT  
Legislative Chair  
KRCS

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Information for  
Public Health and Welfare Committee

Regarding  
Senate Bill No. 35  
Lines 120-127

The Bill recommended by the 1986 Special Committee on Ways and Means (Proposal No. 40) concerns regulation of the practice, policies and procedures of the Board of Healing Arts. The section of the Bill which concerns the University of Kansas Medical Center is that dealing with the biennial licensure and registration renewal of doctors of medicine and osteopathy.

At the present time, the Board of Healing Arts collects information describing the physician's practice as part of its annual licensure renewal process. In connection with the Medical Scholarship Program, K.S.A. 1986 Supp. 76-375 states that the University of Kansas shall prepare a list of the critically and medically underserved areas annually, by specialty. The information used by the University of Kansas Medical Center to prepare this list is that collected by the Board of Healing Arts licensure renewal survey.

A shift to biennial licensure could have different impacts depending on the way in which it is implemented.

- The biennial renewal of all licenses at one time every two years would mean that every other year, only out-of-date information would be available for preparation of the list of underserved areas.
- Medical scholarship recipients are required to select a service commitment area appearing on the list not more than 36 months earlier, in contrast with designations made from accurate data every two years.
- If the licensure renewals were staggered over a two-year period, the University of Kansas Medical Center would not be able to accurately assess the physician manpower of a specific geographic area at a given point in time.
- Collection of practice data from physicians independent of the licensure renewal process is not feasible because a voluntary survey of physicians would likely result in a low response rate and incomplete data.
- The number of requests for interim reviews of manpower status would increase because communities seeking to recruit scholarship recipients would not be able to wait up to two years for a designation which accurately reflects the retirement, relocation, or death of a local physician.

Prepared by:  
Ronald K. Spangler, Director  
Institutional Research and Planning  
University of Kansas Medical Center

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*2-2-87*  
*attachment 8*

KANSAS ACADEMY OF PHYSICIAN ASSISTANTS

TESTIMONY BEFORE SENATE PUBLIC HEALTH AND  
WELFARE COMMITTEE ON SB 35

Kansas Academy of Physician Assistants (KAPA) supports the changes in SB 35 with respect to the Physician Assistant Act.

The change from Physician's Assistant to Physician Assistant is made for title protection reasons so that someone who works for a physician cannot hold themselves out as a registered professional.

The change in the section on disciplinary actions is intended to explicitly state that the PA's can be disciplined for certain offenses for which everyone would agree they should be disciplined, but which the old statute would not clearly allow. As you can see, the old language only allowed a PA to be disciplined if the PA was acting outside the scope of practice.

KAPA also endorses the change in registration fees. It realizes that increased activity creates increased costs.

Finally, KAPA wishes to reaffirm its position that PA's have a dependent practice and have no desire in this bill or any other to obtain a more independent practice.

Respectfully submitted,



Donald G. Strole,  
Attorney for PA's  
16 East 13th Street  
Lawrence, Kansas 66044  
(913) 842-1133



MEMORANDUM

February 2, 1987

TO: Senate Committee on Public Health and Welfare  
FROM: Kansas Legislative Research Department  
RE: Policy Issues: Senate Bill No. 35

Section 8 (pages 9-10), lines 352-355, deletes the limitation on reciprocity which presently limits applicants for a reciprocal license to practice podiatry to applicants from states or counties that extend reciprocity to persons licensed in Kansas.

Section 9 (pages 10-11), lines 366-369 and lines 379-381, deletes the statutorily established passing grade on the examination required of applicants for licensure in podiatry and allows the Board to establish the passing grade. Further, Section 9 deletes the statutory provision which allows an applicant to retake the podiatry examination after six months from failing to pass the examination and allows the Board to set criteria for retaking the examination.

Section 10 (pages 11-14) changes the license renewal for podiatry licenses from annual to biennial and requires a licensee whose license has lapsed to complete reeducation and continuing education requirements established by the Board in order to reinstate the license. Additionally, Section 10 authorizes the Board to issue an inactive license to an individual who has been engaged previously in the active practice of podiatry in Kansas.

Section 11 (pages 14-16) lines 510-511, authorizes the Board to censure a podiatry licensee or permittee either privately or publicly in addition to the disciplinary authority currently in the law.

New Section 12 (pages 16-17) creates a new statute which authorizes the Board to assess a civil penalty against a podiatry licensee in addition to other disciplinary actions authorized by the previous section.

Section 15 (pages 18-19) increases existing maximum podiatry fees and creates new fees.

Section 17 (pages 20-23) changes the licensure of practitioners of the healing arts (MDs, DOs, and chiropractors) from annual renewal to biennial. Further, the section gives new authority to the Board to establish reeducation requirements to be met by licensees whose licenses have lapsed. The section also clarifies the authority of the Board to issue an inactive licensee to inactive practitioners of the healing arts.

Section 18 (pages 23-24) lines 257-259, deletes the requirement that applicants for a temporary permit who are engaged in an approved postgraduate program have passed an examination in basic and clinical sciences prior to qualifying for a temporary permit.

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Section 23 (pages 26-27) deletes the statutory passing grade on examinations in the healing arts and authorizes the Board to establish the passing grade.

Section 26 (page 32) lines 74-76, extends the authority of the Disciplinary Counsel of the Board of Healing Arts to cover physician's assistants, registered physical therapists, registered occupational therapists, and registered respiratory therapists.

Section 27 (pages 32-33) changes the appointment of a review committee for disciplinary matters concerning licensees in the healing arts from mandatory to discretionary and extends the authority to establish such committees for other health care providers licensed or registered by the Board.

Section 29 (pages 33-34) requires a healing arts licensee whose license has been revoked to complete reeducation and continuing education requirements set by the Board.

Section 30 (pages 34-35) increases the statutory fee maximums for licensees in the healing arts and establishes new fees.

Section 31 (pages 35-36) apparently gives the Board new authority to establish criteria for successfully completing postgraduate study in medicine and surgery.

Section 33 (pages 37-38) lines 217-223, creates a new continuing education requirement for renewal of an institutional license.

Section 34 (pages 39-41) provides for biennial registration of physician assistants, provides for reinstatement of a lapsed registration, reeducation, and continuing education, and establishes new fees.

Section 36 (page 43) lines 407-410) authorizes the Board to remove a physician assistant's name from the register for any of the grounds for which a license of a practitioner of the healing arts may be revoked or suspended rather than relating to exceeding the authority assigned to the physician assistant by his or her responsible physician as in the present law. This change appears to create a practice act for physician assistants.

Section 50 (pages 50-52) provides for biennial rather than annual registration of physical therapists and physical therapy assistants. Further, the section provides for completion of reeducation and continuing education for physical therapists and physical therapy assistants who allow a registration to lapse.

Section 51 (pages 52-54) increases statutory maximum fees for physical therapist registrations and creates new fees.

Section 61 (pages 62-63) subsection (d) creates a new temporary registration for occupational therapists and occupational therapy assistants.

Section 63 (pages 63-65) creates new continuing education requirements for occupational therapists, provides for biennial registration, and creates a reeducation requirement for the renewal of a lapsed registration.

Section 64 (pages 65-66) creates a new temporary registration for respiratory therapists.

Section 66 (pages 66-68) creates new continuing education requirements for respiratory therapists, provides for biennial registration, and creates a reeducation requirement for renewal of a lapsed registration.

New Section 67 (page 68) creates a new statute which authorizes the Board to refund fees.

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