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Date 2-1-89
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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Vice-Chairman, Frank Buehler at
Chairperson

1:30 / a.m./p.m. on January 30, 1989 in room 423-S of the Capitol.

All members were present except:

Chairman Littlejohn, excused

Committee staff present:

Bill Wolff, Research
Norman Furse, Revisor
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Richard Gannon, Executive Director, Ks. Board of Healing Arts.

Vice-Chairman, Frank Buehler called meeting to order, calling attention to minutes of January 25, and 26th. He asked members to look them over and at the close of today's meeting he would entertain a motion in reference to those minutes.

Vice-Chair recognized Mr. Richard Gannon, Board of Healing Arts who was scheduled for bill requests.

Mr. Gannon offered hand-out, (see Attachment No. 1 and No. 2). He explained there were 4 bill requests, however, two only are available in draft form for members to review. Mr. Furse, Revisor, is working on final language for the other two requests, so copies not yet available.

Mr. Gannon explained proposal numbered 0318, (Attachment No. 1), i.e., basically this will provide immunity for the Consultants used by the Board of Healing Arts.

Proposal numbered 0320, (Attachment No. 2), is basically technical in nature. It concerns physical therapy, and physical therapy assistants. It is cleanup, and is at the request of Physical Therapy Examining Committee. It would eliminate the word, "certified", and Physical Therapists would favor the word used to be "registered". It would eliminate the qualifications based on the training and experience, even though they graduate from Physical Therapy Schools. It is pretty much just cleanup, he said.

He answered questions, i.e., yes, there are parts of this bill that are more substantial than to call them cleanup language, he agreed.

He outlined the 3rd request, i.e., it would require a plaintiff in a medical malpractice suit to provide a copy of petition to the Board of Healing Arts within a 10 day period. We feel, he said, if this is done, we have a better handle on the malpractice suits, and we could do a better job.

Fourth request was outlined, i.e., this would place certain mandatory reporting obligations on providers of health and accident insurance similar to that done now on risk management and peer review statutes for health care providers.

Vice Chair then asked members to address themselves to proposals given this date as first and second requests. Rep. Branson made a motion to introduce proposals 318 and 320 as requested, and have this legislation be returned to this committee for consideration.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S Statehouse, at 1:30 a.m./p.m. on January 30, 1989

Action taken on bill requests this date:-

Rep. Weimer seconded the motion. No discussion or questions, vote taken, motion carried.

Vice-Chairman noted he had discussed with Mr. Furse, the matter of the last two proposals given by Mr. Gannon, since there is no printed materials available, if it would be appropriate to take action on these requests. Mr. Furse said it would be appropriate, if that is the wish of the Chair and members. Mr. Furse noted that Mr. Gannon had explained basics of bill requests adequately.

Vice-Chair asked desire of committee in regard to these requests. Discussion held, i.e., no there is no urgency in requests, it simply was to accommodate the committee agenda, and the Revisor's work is into overload this week.

Rep. Foster made a motion to introduce the final two proposals given this date by Mr. Gannon, (noted in minutes as third and fourth proposals). Motion seconded by Rep. Scott. No discussion, no questions. Vote taken, motion carried.

Rep. Shumway is recorded as a NO vote.

Vice-Chair asked members wishes in regard to committee minutes dated January 25, 26th.

Rep. Amos moved these minutes of January 25th and 26th be approved as written, seconded by Rep. Sader, motion carried.

Rep. Amos made announcemen that sub-committee on HB 2012 would meet in room 423-S immediately on adjournment of this Public Health and Welfare Committee Meeting.

Vice-Chairman adjourned meeting at 1:48 p.m.

BILL NO. _____

By

AN ACT concerning the state board of healing arts; exempting from civil liability certain agents of the board.

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

Section 1. The state board of healing arts is hereby authorized to employ, appoint, designate and utilize individuals who shall be agents of the board to evaluate and review investigative materials, conduct interviews and render opinions, reports and testimony on matters which may result in disciplinary action against any individual who has received a license, permit, registration or certification from the board or who has applied for any license, permit, registration or certificate. No individual who provides such services shall be liable in a civil action for damages or other relief arising from testimony provided or recommendation or opinion made by such individual acting without malice and in good faith within the scope of such individual's capacity as an agent of the board.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

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Jan. 30, '89
Attn. # 1.*

BILL NO. _____

By

AN ACT concerning physical therapy; relating to the registration of physical therapists and physical therapist assistants; authorizing certain fees; amending K.S.A. 65-2908, 65-2909, 65-2910, 65-2913, 65-2914 and 65-2915 and K.S.A. 1988 Supp. 65-2901, 65-2905, 65-2906, 65-2911 and 65-2912 and repealing the existing sections; also repealing K.S.A. 65-2907 and 65-2919.

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

Section 1. K.S.A. 1988 Supp. 65-2901 is hereby amended to read as follows: 65-2901. (a) As used in this act, the term "physical therapy" means a health specialty concerned with the evaluation, treatment or instruction of human beings to assess, prevent and alleviate physical disability and pain. This includes the administration and evaluation of tests and measurements of bodily functions and structures in aid of treatment; the planning, administration, evaluation and modifications of treatment and instruction, including the use of physical measures, activities and devices for prevention and therapeutic purposes; and the provision of consultative, educational and advisory services for the purpose of reducing the incidence and severity of physical disability and pain. The use of roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, and the practice of medicine and surgery are not authorized or included under the term "physical therapy" as used in this act.

(b) "Physical therapist" means a person who practices physical therapy as defined in this act and delegates selective forms of treatment to supportive personnel under the supervision of such person. Any person who successfully meets the

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requirements of K.S.A. 65-2906 and amendments thereto shall be known and designated as a physical therapist and may designate or describe oneself as a physical therapist, physiotherapist, registered physical therapist, P.T., Ph. T. or R.P.T. Physical therapists may evaluate patients without physician referral but may initiate treatment only after consultation with and approval by a physician licensed to practice medicine and surgery, a licensed podiatrist or a licensed dentist in appropriately related cases.

(c) "Physical therapist assistant" means a person who works under the direction of a physical therapist, and who assists in the application of physical therapy, and whose activities require an understanding of physical therapy, but do not require professional or advanced training in the anatomical, biological and physical sciences involved in the practice of physical therapy. Any person who successfully meets the requirements of K.S.A. 65-2906 and amendments thereto shall be known and designated as a physical therapist assistant, and may designate or describe oneself as a physical therapist assistant, certified registered physical therapist assistant, P.T.A., ~~C.P.T.A.~~ R.P.T.A. or P.T. Asst.

Sec. 2. K.S.A. 1988 Supp. 65-2905 is hereby amended to read as follows: 65-2905. (a) The state examining committee for physical therapy provided for in this act shall elect from their members a president and a vice-president, who shall serve for one year or until their successors are elected and qualified. The executive director of the state board of healing arts shall act as secretary of the examining committee.

(b) The state examining committee shall serve in an advisory capacity to the state board of healing arts in matters pertaining to physical therapy. The state board of healing arts may adopt reasonable rules and regulations relative to the qualification and examination of applicants as may be found necessary for the performance of its duties. As to any matters coming under its jurisdiction, the state examining committee

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while in session may take testimony and any member may administer oaths in the taking of such testimony.

(c) A simple majority of the committee shall constitute a quorum for the transaction of business. The secretary shall keep a record of all procedures of the committee.

(d) The examining committee shall meet at a city designated by the examining committee and the board, and under the direction of the state board of healing arts, there conduct the examination for the registration of physical therapists and ~~certification--of~~ physical therapist assistants, at least once each year, and may hold other meetings and examinations at such times and places as the examining committee and board may determine.

(e) The board may appoint and fix the compensation of such employees as may be necessary to assist the examining committee, and the board shall have the power to employ such expert assistance as it may deem necessary to carry out the purposes of this act. Members of the state examining committee for physical therapy attending meetings of such committee, or attending a subcommittee meeting thereof authorized by such committee, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

Sec. 3. K.S.A. 1988 Supp. 65-2906 is hereby amended to read as follows: 65-2906. (a) ~~It shall be the duty of~~ The state board of healing arts, with the advice and assistance of the state examining committee, to shall pass upon the qualifications of all applicants for examination and registration ~~or--certification~~, provide for and conduct all examinations, determine the applicants who successfully pass the examination, duly register ~~or--certify~~ such persons and adopt rules and regulations for professional conduct of the registered ~~or-certified~~ persons.

(b) A person who desires to be registered as a physical therapist and who:

(1) Is of legal age; and

(2) has graduated from a school of physical therapy approved by the state board of healing arts, may make application

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on a form furnished by the board for examination for registration as a physical therapist.

(c) A person who desires to be ~~certified~~ registered as a physical therapist assistant and who:

(1) Is at least of legal age;

(2) has successfully obtained a high school education or its equivalent, as determined by the board; and

(3) has successfully completed a program in a school for physical therapist assistants approved by the state board of healing arts, ~~or is determined by the state board of healing arts to possess equivalent qualifications based on training and experience,~~ may make application for examination on forms furnished by the board.

(d) The board shall adopt rules and regulations establishing the criteria which a school shall satisfy in order to be approved by the board for purposes of subsections (b) and (c). The board may send a questionnaire developed by the board to any school for which the board does not have sufficient information to determine whether the school meets the requirements of the board for approval and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the school to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about schools. In entering such contracts the authority to approve schools shall remain solely with the board.

Sec. 4. K.S.A. 65-2908 is hereby amended to read as follows: 65-2908. The board shall register as a physical therapist or ~~certify~~ as a physical therapist assistant each applicant who successfully meets the requirements provided for in this act for registration as a physical therapist or ~~certification~~ as a physical therapist assistant and who is otherwise qualified as required herein. The board shall issue a certificate of registration to each person registered under this

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act and a certificate to each person certified under this act.

Sec. 5. K.S.A. 65-2909 is hereby amended to read as follows: 65-2909. (a) The board may issue a certificate of registration in physical therapy without examination therein to an applicant who presents evidence satisfactory to the board of having passed the examination in physical therapy of the American registry of physical therapists, or an examination before a similar, lawfully authorized examining board in physical therapy of another state, District of Columbia, territory or foreign country, if the standards for registration in physical therapy in such other state, district, territory or foreign country are determined by the board to be as high as those of this state. At the time of making such application, the applicant shall pay to the board a fee as prescribed, no part of which shall be returned.

(b) The board may issue a certificate of registration as a physical therapist assistant without examination therein to an applicant who presents evidence satisfactory to the board of having passed an examination as a physical therapist assistant as approved by the state board of healing arts or an examination before a similar, lawfully authorized examining board in physical therapy of another state, District of Columbia, territory or foreign country, if the standards for certification in or registration as a physical therapy therapist assistant in such other state, District of Columbia, territory or foreign country are determined by the board to be as high as those of this state. At the time of making such application, the applicant shall pay to the board a fee as prescribed, no part of which shall be returned.

(c) The board may issued a temporary registration to an applicant for registration as a physical therapist or as a physical therapist assistant who applies for temporary registration on a form provided by the board, who meets the requirements for registration and who pays to the board the temporary registration fee as required under K.S.A. ~~65-2910~~ and

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65-2911

amendments thereto. Such temporary registration shall expire on the date the board acts on the application for registration.

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~~Sec. 6. K.S.A. 65-2910 is hereby amended to read as follows: 65-2910. Every registered physical therapist or certified physical therapist assistant shall, during each January, apply to the board for an extension of such person's registration or-certification and pay a fee as determined by the board. The board shall require every registered physical therapist as a condition of extension of registration to submit with the application for an extension of registration evidence of satisfactory completion of a program of continuing education required by the board. The board by duly adopted rules and regulations shall establish the requirements for such program of continuing education. In establishing such requirements the board shall consider any existing programs of continuing education currently being offered to registered physical therapists. Any registration or-certification that is not so extended on or before January 31, each year, shall automatically lapse on that date. The board, in its discretion, may revive and extend a lapsed registration or-certification upon payment of the full amount of the delinquent fee together with an additional fee established by the board of not to exceed \$30 and, in the case of a registration, upon proof that the registered physical therapist has satisfactorily completed a program of continuing education required by the board.~~

Sec. 7. K.S.A. 1988 Supp. 65-2911 is hereby amended to read as follows: 65-2911. (a) The state board of healing arts may adopt such rules and regulations as necessary to carry out the purposes of this act. The executive director of the board shall keep a record of all proceedings under this act and a roster of all persons registered or-certified under the act. The roster shall show the name, address, date and number of the original certificate of registration or--certifiate, and the renewal thereof.

(b) The following fees shall be fixed by rules and

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regulations adopted by the state board of healing arts and shall be collected by the board:

(1) For registration as a physical therapist, the sum of not more than \$150;

(2) for registration as a physical therapist assistant, the sum of not more than \$150;

(3) for temporary registration as a physical therapist, the sum of not more than \$50;

(4) for temporary registration as a physical therapist assistant, the sum of not more than \$50;

(5) for renewal of registration as a physical therapist, the sum of not more than \$75;

(6) for renewal of registration as a physical therapist assistant, the sum of not more than \$75;

(7) for late renewal of any registration as a physical therapist, the sum of not more than \$250;

(8) for late renewal of any registration as a physical therapist assistant, the sum of not more than \$250;

(9) for reinstatement of any registrant whose registration lapsed for failure to renew, the sum of not more than \$250;

(10) for reinstatement of any registrant, whose registration has been revoked, the sum of not more than \$250;

(11) for any examination given by the state board of healing arts for registration as a physical therapist or a physical therapist assistant, the sum equal to the cost of the examination to the board and its administration;

(12) for a certified statement from the state board of healing arts that a registrant is registered as a physical therapist or physical therapist assistant in this state, the sum of not more than \$30; and

(13) for a copy of any certificate of registration issued by the state board of healing arts to a physical therapist or physical therapist assistant, the sum of not more than \$25.

(b) (c) The state board of healing arts shall remit all moneys received by or for it from fees, charges or penalties to

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

Sec. 8. K.S.A. 1988 Supp. 65-2912 is hereby amended to read as follows: 65-2912. (a) The board may refuse to grant a certificate of registration to any physical therapist or a certificate to any physical therapist assistant, or may suspend or revoke the registration of any registered physical therapist or certificate of any certified physical therapist assistant for any of the following grounds:

(1) Addiction to or distribution of intoxicating liquors or drugs for other than lawful purposes;

(2) conviction of a felony if the board determines, after investigation, that the physical therapist or physical therapist assistant has not been sufficiently rehabilitated to warrant the public trust;

(3) obtaining or attempting to obtain registration or certification by fraud or deception;

(4) finding by a court of competent jurisdiction that the physical therapist or physical therapist assistant is a disabled person and has not thereafter been restored to legal capacity;

(5) unprofessional conduct;

(6) the treatment or attempt to treat ailments or other health conditions of human beings other than by physical therapy and as authorized by this act;

(7) failure to refer patients to other health care providers if symptoms are present for which physical therapy treatment is inadvisable or if symptoms indicate conditions for which treatment is outside the scope of knowledge of the

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registered physical therapist;

(8) initiating treatment without prior consultation and approval by a physician licensed to practice medicine and surgery, by a licensed podiatrist or by a licensed dentist; and

(9) knowingly submitting any misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement.

(b) All proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 9. K.S.A. 65-2913 is hereby amended to read as follows: 65-2913. (a) Any person who, in any manner, represents oneself as a physical therapist, or who uses in connection with such person's name the words or letters physical therapist, physiotherapist, registered physical therapist, P.T., Ph. T. or R.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist, without a valid existing certificate of registration as a physical therapist issued to such person pursuant to the provisions of this act, shall be guilty of a misdemeanor.

(b) Any person who successfully meets the requirements of subsection (c) of K.S.A. 65-2906 and amendments thereto shall be known as and designated a physical therapist assistant and may designate or describe oneself as a physical therapist assistant, ~~certified~~ registered physical therapist assistant, P.T.A., ~~E-P-T-A~~ R.P.T.A., or P.T. Asst.

(c) Nothing in this act shall prohibit any person not holding oneself out as a physical therapist or physical therapist assistant from carrying out as an independent practitioner, without prescription or supervision, the therapy or practice for which such person is qualified, and shall not prohibit such person from using corrective therapy. Nothing in this act shall prohibit any person who assists the physical therapist or

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physical therapist assistant from being designated as a physical therapy aide.

Sec. 10. K.S.A. 65-2914 is hereby amended to read as follows: 65-2914. (a) No person shall employ fraud or deception in applying for or securing a certificate of registration as a physical therapist.

(b) A person registered under this act as a physical therapist shall not treat ailments or other health conditions of human beings other than by physical therapy unless duly licensed or registered to provide such treatment under the laws of this state.

(c) A person ~~certified~~ registered under this act as a physical therapist assistant shall not treat ailments or other health conditions of human beings except under the direction of a physical therapist duly registered under this act. The word "direction" as used in this subsection (c) shall mean that the physical therapist shall see all patients initially and evaluate them periodically.

(d) Any person violating the provisions of this section shall be guilty of a class B misdemeanor.

Sec. 11. K.S.A. 65-2915 is hereby amended to read as follows: 65-2915. In the prosecution of any person for violation of this act, as specified in K.S.A. 65-2914 and amendments thereto, it shall not be necessary to allege or prove want of a valid certificate of registration ~~or--certifiate~~ in physical therapy, but such matters shall be a matter of defense to be established by the accused.

New Sec. 12. Any person holding a valid certificate as a physical therapy assistant immediately prior to the effective date of this act which has been issued by the state board of healing arts shall be deemed to be a registered physical therapist assistant for the purposes of this act and article 29 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof and supplemental thereto and shall be subject to the provisions of this act and the provisions

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of such article and chapter of the Kansas Statutes Annotated.

Sec. 13. K.S.A. 65-2907, 65-2908, 65-2909, 65-2910, 65-2913, 65-2914, 65-2915 and 65-2919 and K.S.A. 1988 Supp. 65-2901, 65-2905, 65-2906, 65-2911 and 65-2912 are hereby repealed.

Sec. 14. This act shall take effect and be in force from and after its publication in the statute book.

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