

Approved 3-21-89 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 16, 1989 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Carolyn Bloom, Vice-President, Physical Therapists Planning Committee
Chris Ringle, Leg. Ch., KS Chapter, American Physical Therapy Association
Jennie Atwood, Instructor, Physical Therapists Assistants Program, Washburn University
Maggie Varner, Student, Physical Therapist Assistant training
Larry T. Buening, General Counsel, Kansas Board of Healing Arts
Tuck Duncan
Written testimony by Cheryl A. Carpenter, CPTA, HB-2161
Richard Morrissey, Bureau of Adult and Child Care, KDHE

Carolyn Bloom, PT, Vice President, Physical Therapy Examining Committee of the Kansas State Board of Healing Arts appeared before the committee and presented written testimony stating support for HB-2161 as it was originally written and opposing the two amendments added in the House Public Health and Welfare Committee. Ms. Bloom stated the original need for the bill was basically to clarify procedural actions of the committee, change certified status to registered, address temporary registration and delineate the fee structure. Ms. Bloom stated non-residents were applying to take the test to enhance their stature in their own state. The work experience applicants increase the liability of the Physical Therapy Committee in determining equivalent training on a case by case basis and does not add enough credentialed PTAs to the work force to warrant the additional problems. Lines 383-387 amended into the bill would allow a PTA to initiate treatment by physician orders according to written protocol established by the physical therapist with a minimum weekly review of patient care by the physical therapist if a PT is not available for immediate contact. It was also stated that Medicare and other insurance companies do not offer reimbursement for services under nursing orders and will not reimburse as a physical therapy order until after a physical therapist performs the initial evaluation and sets the plan of care for the patient. (Attachment 1)

Chris Ringel, PT, Legislative Chairman, Kansas Chapter, American Physical Therapy Association, stated support of the original language of HB-2161 as proposed by the State Board of Healing Arts and opposed two amendments added in the House Public Health and Welfare Committee. Repealing lines 120-123 would help assure quality assistants entering the system with thorough educational backgrounds. Mr. Ringle further stated the amendment, lines 383-386 would not assist hospitals it is intended to help since a physical therapist is still required to review patient care weekly and a physical therapist is required to develop the written protocol for the assistant. (Attachment 2)

Jennie Atwood, PT, MA, Assistant Professor, Physical Therapist Assistant Program, Washburn University, testified before the committee expressing her opposition to HB-2161 stating Washburn's PTA program requires over 70 credit hours (as required by national accreditation standards) including over 600 clinical hours of direct patient care. She further stated only

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 16, 1989

one individual without formal education has passed the exam. Consequently the equivalent training and experience clause will not affect the shortage. The amendment allowing PTAs to initiate treatment under protocol if the PT is not available will not protect the citizens of Kansas if individuals without formal training are allowed to initiate evaluation and treatment plans without a supervising PT first seeing the patient and determining the treatment plan. (Attachment 3)

Maggie Varner, a student in Physical Therapist Assistant training at Washburn told the committee stating she had worked as a PT Aide for 13 13 years and was qualified to sit for the PTA certification examination but recognized she did not have a good understanding of the fundamentals of physical therapy and is now taking the coursework necessary to become a Physical Therapist Assistant. Ms. Varner stated opposition to both the education amendment and the amendment allowing the PTA to initiate treatment. (Attachment 4)

Discussion brought out the liability concerns regarding the amendment allowing a Physical Therapist Assistant to initiate treatment. The Assistants are not carrying liability insurance but the Physical Therapists do carry it for themselves.,

Tuck Duncan who represents the Occupational Therapists requested permission to speak and stated that allowing PTAs to initiate treatment would bring about numerous requests from other areas to do the same thing.

Larry T. Buening, General Council, Board of Healing Arts told the committee that HB-2161, as originally drafted, appeared to present several controversial issues. Mr. Buening stated the educational changes in the bill were meant solely to bring the credentialing nomenclature into conformity with the Kansas Act for Credentialing. There was no intent to increase the credentialing status of Physical Therapist Assistants. Subsection c of section 5, lines 173 through 180 would statutorily create a temporary registration. The way it is presently worded a temporary registration could only exist once an applicant has met all requirements for registration and be more restrictive than is presently allowed. The changes made in lines 383 through 387 would allow a Physical Therapist Assistant to initiate treatment by the physician's order but still does not address the problem in rural communities that a Physical Therapist must still provide minimum weekly review of patient care. (Attachment 5)

Due to the concerns expressed over the amendments the Chairman appointed a sub-committee on HB-2161 composed of Senator Langworthy, chairman, Senator Vidricksen and Senator Walker, ranking minority member.

Richard Morrissey, Director, Bureau of Adult and Child Care presented testimony and spoke in support of HB-2121. Mr. Morrissey stated that it became apparent following 1988 legislation that even though persons were prohibited from reapplying for a day care home license, they could immediately apply for a certificate of registration and continue to provide child care. By the same token, persons whose certificates of registration were revoked could apply for a day care home license and experience no cessation of child care. House Bill 2121 would correct this difficulty by prohibiting either licensure or registration for a year after legal closure. (Attachment 6)

Senator Reilly moved to pass out HB-2121 favorable for passage. Senator Strick seconded the motion and the motion carried.

Written testimony was submitted by Cheryl A. Carpenter, CPTA concerning HB-2161. Ms. Carpenter voiced concerns about the amendment, lines 383-387 allowing a PTA to initiate treatment by a physicians order. Ms. Carpenter questioned where the liability would rest if difficulty developed when using this amendment. (Attachment 7)

The meeting adjourned at 10:55 a.m. and will convene Monday, March 20, 1989, in room 526-S at 10:00 a.m.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE March 16, 1989

(PLEASE PRINT)
NAME AND ADDRESS

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Ks Physical Therapy Assn

Jennie Atwood, P.T.

Ks. Physical Therapy Assn.

Maggie Varner SPTA

Ks. Physical Therapy Assn.

Cheryl Carpenter CPTA

KS Physical Therapy Assn

Michael J. Chapman P.T.

Ks Physical Therapy Assoc.

Carolyn Hoem PT

P.T. Examining Committee

ce Ring PT

K.P.T.A.

March 16, 1989

Carolyn Bloom, PT
Vice-President
Physical Therapy Examining Committee
of the Kansas State Board of Healing Arts
235 SW Topeka Blvd.
Topeka, KS 66603
913-233-2225

House Bill No. 2161

Mr. Chairman and Members of the Senate Public Health and Welfare Committee:
My name is Carolyn Bloom and I am a physical therapist and Vice-President of the
Physical Therapy Examining Committee of the Kansas State Board of Healing Arts.

My purpose today is to offer support to the original language of HB * 2161 but
oppose two amendments added in the House Health and Welfare Committee.

The original need for this bill to be presented was basically to clarify procedural
actions of the Committee, change certified status to registered per directive of
the Public Health Interim Committee of 1987 and current Kansas statute
terminology, address temporary registration in the statute as well as the Rules
and Regulations, and delineate the fee structure. The only two actions that would
change future practice from past regulation involved adding physical therapist
assistants under the continuing education requirements and removing the
equivalency training clause that would enable a physical therapy aide to sit for
the national licensing test for physical therapist assistants on work experience
alone.

I surveyed the 260 PTAs licensed in Kansas with 123 returns. Of these 123
surveys, 112 of the assistants wished to have mandatory CEUs.

SPH/W
3-16-89
Attachment 1

On lines 120-123 is the stricken, then amended, equivalent qualification clause. The intent of the P.T. Examining Committee is to ensure the qualifications and training of the health care personnel providing treatment to the public. Washburn University and Colby Community College have accredited schools of physical therapist education requiring two full years of education and practical training under a physical therapist. We understand the intent of the House Public Health Committee in returning this clause as an amendment was to enable persons in rural Kansas more accessibility to becoming physical therapist assistants. In reality this does not happen. Of the 17 persons who have applied to sit for the PTA licensing exam on work experience, 11 were allowed to sit for the test and 6 passed (with two of these applicants failing the first time and retaking the test).

Of these 6 passing applicants, only two were from Kansas, the other four were from Iowa, a state that does not credential PTAs. These persons did not plan to work in Kansas, but wished to enhance their stature in their own state. These work experience applicants only add to the work load of the Healing Arts Board staff, increases the liability of the Physical Therapy Examining Committee in determining equivalent training on a case by case basis, and does not add enough credentialed PTAs to the work force in Kansas to warrant the additional problems.

The PT Committee again requests that verbage on lines 120-123 be stricken.

The PT Examining Committee also wishes to strike the clause on lines 383-387 stating that if a PT is not available for immediate contact a PTA can initiate

treatment by physician orders according to written protocol established by the physical therapist with a minimum weekly review of patient care by the physical therapist. This action may leave the patient at risk of receiving modality treatment (use of machines) and inappropriate exercise without the therapist first determining a treatment program. The majority of physicians agree they are not trained in physical therapy procedures and do not want to supervise PTAs. The physicians who specialize in physical medicine and rehabilitation and can give specific therapy orders do not usually work in rural areas. Most physicians in these areas give orders for "Evaluate and Treat" leaving the specific treatment plan to be written by the evaluating physical therapist. PTAs are not trained in evaluating the needs of the individual patient, but in carrying out treatment demonstrated by the therapist. The Board of Healing Arts did vote on this issue at its February, 1989 meeting, but this issue was not on the agenda, the Advisory Committees under the Board were not contacted for input, and all sides of the issue weren't investigated.

The intent of the House Public Health Committee in amending this clause was to provide immediate care to patients in small, rural hospitals or to legalize the manner that care is currently being given in hospitals that may have only a part time consulting PT. Apparently four hospitals had called the Public Health Committee Chairman and lamented they had lost their PT consultant altogether. This clause would not help because the weekly PT patient care review could not be done as required and the law will still not be met. Currently palliative treatment

of heat, cold, bed traction, massage or crutch walking can be initiated to these patients prior to the physical therapist's evaluation as a nursing order so this care can currently be given to patients without the amendment. However, Medicare and other insurance companies do not offer reimbursement for these services under nursing orders, and will not reimburse as a physical therapy order until after the physical therapist performs the initial evaluation and sets the plan of care for each patient. This clause will not help the rural hospitals receive reimbursement for care the PTA provides prior to the physical therapist's evaluation. This clause may make it more difficult for a rural hospital to obtain a P.T. consultant if the PTA initiates treatment since the PT is still responsible for all malpractice and liability issues of the PTA. Many PTs stated they do not want the liability of a PTA without evaluation skills (and especially if equivalency trained and tested) initiating treatment since a written protocol is not feasible for every diagnosis.

It is difficult to hire physical therapists in rural hospitals, but there is no quick fix to the problem. There are shortages of teachers in rural areas also, but the law is not changed to allow other than qualified teachers to teach the public. The laws of the state should be written to uphold the highest level of professional competency and service to the public in general. The 1988 Kansas Hospital Association survey of their 160 member hospitals through the Human Resources Department showed 16% of the participating hospitals need physical and occupational therapists. Changing the law to attempt meeting the needs of the

few may lower the standard of care for all, and this clause will not even meet the needs of the few!

The KHA, KMA, the state universities and the physical therapy association must support a long range plan to address the needs of health care in Kansas and work toward common goals for the future. Please strike the clause on lines 383-386 since this is not the quick fix that will solve the rural health care problems in Kansas and may well cause more health care problems in the eastern part of the state.

Thank you for allowing me to address your Committee. I will be happy to answer any questions.

March 16, 1989

Chris Ringel, PT
Legislative Chairman
Kansas Chapter,
American Physical Therapy Association
1237 SW Belle Terr.
Topeka, Kansas
(913) 272-4121

Mr. Chairman and Members of the Senate Public Health and Welfare Committee: I represent the Kansas Physical Therapy Association, which serves 90% of all practicing physical therapist and physical therapy assistants in this state. My Purpose today is to support the original language of HB-2161 as proposed by the State Board of Healing Arts and oppose two amendments added in the House Public Health and Welfare Committee.

Our association opposes the house amendment reinstating lines 122-123 that allows persons without formal academic training to set for the assistant certification exam. Repealing lines 120-123 would resolve the current situation of individuals from other states with only P.T. aide experience coming to Kansas to take the certification exam, becoming certified and then transferring this certification to their home state. We recommend that an associates degree from an accredited institution (Washburn University or Colby Community College in Kansas) be required to gain basic science and supervised clinical instruction. These basics are minimum needs for the assistant in the expanding technical field of physical

S P/H/W
3-16-89
Attachment 2

therapy. Repealing lines 120-123 would help assure quality assistants entering the system with thorough educational backgrounds. Additional language that we oppose is found in lines 383-386 and reads as amended by the House Public Health and Welfare Committee "If the physical therapist is not available for immediate contact, the physical therapist assistant may initiate treatment by the physician's orders, according to written protocol established by the physical therapist, with minimum weekly review of patient care by the physical therapist." We understand this amendment was made in an attempt to resolve the shortages of physical therapists in our rural areas. The supplementary note background states the amendment was requested by several rural hospitals that have recently been notified that the physical therapy services they have been receiving on a contractual basis will no longer be available to them. This amendment does not assist these hospitals that are intended since a physical therapist is still required to review patient care weekly and a physical therapist is required to develop the written protocol for the assistant. Key points of concern that were not mentioned in the House include:

1. Assistants are not trained in evaluation techniques or the establishment of a treatment protocol. There is no way a written protocol, as suggested in this amendment, could sufficiently cover all possible treatment options safely.
2. Assistants are not trained to recognize contraindications to treatment.
3. Liability for the assistants treating patients before the therapist evaluation has not been determined. Currently assistants are not required to carry malpractice insurance. Will they be with this amendment? Do the assistants want this new found responsibility? Will physicians and physical therapist malpractice insurance skyrocket as they may be potentially responsible for an assistants actions who may be providing care they are not trained to perform?

4. Many physical therapists will not assume the responsibility / liability of supervising assistants that initiate treatment without a physical therapist evaluation, thus decreasing yet further the number of therapist that would practice in the rural setting.
5. Most insurance companies (including Medicare) recognize the importance of a quality plan of care established by a physical therapist and will not reimburse any P.T. services without an initial evaluation, established plan of care and documented weekly review of patient care by a physical therapist.
6. It is in direct conflict with many other sections of our practice act and the rules and regulations established by the State Board of Healing Arts. Let me call your attention to KSA 65-2901 section (c) line 52 in HB-2161 which states "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 PT. I will also quote in context from our Rules and Regulations of the State Board of Healing Arts regarding the practice of physical therapy:
 - a. Each P.T. upon accepting the referral of a patient from a qualified practitioner, shall assume the responsibility for evaluating the patient, planning the patients's treatment program, implementing and supervising that program, re-evaluating the patient planning the treatment program, implementing and supervising that program, re-evaluating and changing that program, maintaining adequate records of the case and filing appropriate progress reports with the attending practitioner.
 - b. Each P.T. shall not delegate any activity which requires the unique skill, knowledge, and judgement of the P.T. to a less qualified person.
 - c. The primary responsibility for the physical therapy care rendered by the physical therapist assistant shall rest with the supervising physical therapist. Each supervising physical therapist shall provide adequate supervision of the assistant which shall include at the minimum that the supervisor perform the following activities:

- aa. interpret the practitioner's referral
 - bb. provide initial evaluation of the referred patient
 - cc. develop a treatment plan and program including the long and short term goals
 - dd. assess the competency of supportive personnel to perform assigned tasks
 - ee. select and delegate appropriate portions of the treatment plan and program
 - ff. identify and document precautions, special problems, contraindications, goals, anticipated progress, and plans for re-evaluation
 - gg. direct and supervise supportive personnel in delegated functions
 - hh. re-evaluate the patient, adjust the treatment plan, perform final evaluation of the patient, and provide discharge planning
 - ii. designate or provide channels or written and oral communication; and
 - jj. supervise each physical therapy assistant a minimum of once a week
- d. 100-37-2 concerns the responsibilities of the physical therapy assistant and how each physical therapy assistant shall:
- aa. not initiate or alter a treatment program without prior evaluation by and approved of the supervising P.T.
 - bb. not interpret data relating to a patient's disability
 - cc. not respond to inquiries that require the assessment of patient progress or prognosis. Such inquiries shall be referred directly to the supervising P.T.
 - dd. not carry out any procedure that the assistant is not qualified and competent to provide.

Violations of any of the revisions I have just stated constitute grounds for the loss of registration by the physical therapist and the assistant. Amended lines 383-387 of HB-2161 is in direct conflict with all the above statutes and rules and regulations that have been carefully derived over the past 20 years. Such an

amendment could adversely effect the quality of P.T. care given across the entire state. Our association realizes there is a shortage of physical therapist in rural areas. This shortage, however, will not be solved by these amendments.

The Kansas Physical Therapy Association is taking a proactive stance with this shortage issue in our rural areas. We run classified ads in our quarterly newsletter that is issued to over 500 Kansas P.T.'s, assistants and students, we have started a job board at our state meetings by a professional services committee that maintains listings of job openings and tries to assist P.T.'s in filling these openings, we support HB-2279 which is a bill for nursing scholarships in hopes similar scholarships will be available in the future for P.T.'s to contract with a rural hospital to pay back in service for a scholarship, we encourage Kansas University and Wichita State University to open their P.T. programs to more Kansas residents since a recent survey we did of graduating students showed that out-of-state students return to their home states rather than remaining n Kansas to practice and we would like to encourage the legislature to appropriate more money to the physical therapy education programs at K.U. and W.S.U. to expand the enrollment and creating more therapist for our state.

No easy solutions exist here just as with the shortages of physicians, nurses, teachers and others in the rural areas. The adverse consequences of mentioned amendments to our current P.T. practice and quality of physical therapy care across the entire state outweigh the minimal if any benefit to a few.

We request that you eliminate the amendments on lines 120-123 and
383-386 and then pass HB 2161 favorably. Thank you for this
opportunity to testify today.

March 16, 1989

Jennie Atwood, PT, MA
Assistant Professor
Physical Therapist Assistant Program
Washburn University
Topeka, Kansas

To: Members of the Senate Public Health and Welfare
Committee

My name is Jennie Atwood. I am a Physical Therapist and Assistant Professor in the Physical Therapist Assistant Program at Washburn University. I am very much opposed to the amendments and the current state of HB 2161. My opposition to this is based on the following reasons:

- a. The equivalent training and experience clause which allows an applicant to sit for the Physical Therapist Assistant certification exam based on work experience alone was left in the bill. I am very familiar with the academic curriculum the Physical Therapist Assistant students must take. I believe that an individual must have formal academic training to function within the field of physical therapy as we know it today. Presently Washburn's PTA program requires over 70 credit hours (as required by national accreditation standards) including over 600 clinical hours of direct patient care. Since the first graduating class of 1985, 71 out of 71 students have passed the exam. In a recent

SP/Atw
3-16-89
Attachment 3

survey conducted by the Kansas Physical Therapy Association, over 90% have chosen to stay in Kansas. Additionally, many of these students have elected to practice in rural communities where they have completed clinical work experience.

In the past three years, only one individual without formal education has passed the Physical Therapist Assistant certification examination. I do not believe the equivalent training and experience clause will affect the shortage of Physical Therapist Assistants in our state.

- b. The clause to allow PTAs to initiate treatment under protocol if the PT is not available was added to the bill. This would not protect the citizens of Kansas if individuals without formal training were allowed to not only sit for the exam, but if they passed, to initiate evaluation and treatment plans without the supervising PT first seeing the patient and determining the treatment plan. The Physical Therapist, not the physician, would be directly liable for any care given by the PTA. I would not, and I believe other practicing Physical Therapists would not, want this risk and would not agree to supervise a PTA under these circumstances. Because the law requires that PTAs

have a PT designated as their supervisor, this would increase the problem rural communities are having trying to supply physical therapy services. If the purpose of allowing physicians to refer directly to PTAs is to receive palliative care in the acute care hospital in a rural area, it is not needed. Presently, nursing can apply heat, cold bed traction and crutch instruction to patients. Of course, reimbursement under "physical therapy" would not be allowed. Medicare will pay for physical therapy treatments only if the physical therapist performs the initial physical therapy evaluation of the patient, sets a plan of care, and continues to supervise the PTA in the care of each patient. I hope the issue of reimbursement is not the only reason some hospital administrators are concerned with this amendment to HB 2161. If the purpose is to allow hospitals who are unable to hire physical therapists a means of providing physical therapy, this amendment will not produce a change. With the current wording, the PT would still be required to see the patient within one week. This amendment would not help the facilities that are unable to hire a Physical Therapist. Indeed, I believe it would likely decrease the availability of good physical therapy care in Kansas.

I support the original language of HB 2161 without the amendments that were added in the house committee. I can not support the equivalency training and the PTA initiating treatment amendments.

Thank you for your time. I would be happy to answer any questions at this time.

March 16, 1989

Maggie Varner
Student Physical Therapist Assistant
5008 NW 52nd Street
Topeka, Kansas

To: Members of the Senate Public Health and Welfare
Committee

Mr. Chairman and committee members, thank you for allowing me to speak before you.

My name is Maggie Varner. As a soon to graduate Physical Therapist Assistant, I would like to comment on HB 2161, an act dealing with Physical Therapy.

I am strongly opposed to retaining the equivalent training and experience clause which allows an individual to sit for the Physical Therapist Assistant certification exam without requiring graduation from an accredited Physical Therapist Assistant Program. This clause has been in affect over ten years and has outlasted its usefulness in today's sophisticated medical system.

I worked as a Physical Therapy Aide for various local facilities for 13 years. I feel I had excellent on the job training and performed well as a Physical Therapy Aide. I would have been qualified to sit for the PTA certification examination. However, I recognized that I did not have a good understanding of the fundamentals of physical therapy and felt it would be better for me to pursue the academic

*SP&W
3-16-89
Attachment 4*

coursework necessary to become a Physical Therapist Assistant. I will graduate from Washburn University's Physical Therapist Assistant program in May. I know now how much I didn't know then. I feel I am now better prepared to provide patients with safe, progressive treatments, the kind of physical therapy services they deserve and pay for. Experience is a very valuable part of the physical therapy treatment, but it should be coupled with a background in the basic sciences and supervised clinical instruction to better benefit the public and ensure quality patient care. In today's ever changing physical therapy profession, an individual without formal academic training will ultimately be a liability.

Additionally, I am strongly opposed to the clause that would allow PTAs to initiate treatment under protocol if the PT were not available.

It was not the intent of the education I received that I should treat patients without the supervision of a Physical Therapist. I would not feel safe nor comfortable in this situation. I do not feel this would be a safe or fair position for the patient. As a Physical Therapist Assistant, I have good technical knowledge and skills. I can competently provide exercises or therapeutic modalities for various patient types, if the P.T. performs the initial physical therapy assessment and screening of the patient. I have not learned and do not know how to assess physical

therapy problems. That is the skill and training of the Physical Therapist. My skill and training are in treatment.

I support the original language of HB 2161 without the amendments that were added in the house committee. I can not support the equivalency training and the Physical Therapist Assistant initiating treatment amendments. I would request that the amendments to HB 2161 be withdrawn.

Again, thank you for your time. I would be happy to answer any questions you may have.

State of Kansas

Office of

RICHARD G. GANNON, EXECUTIVE DIRECTOR
CHARLENE K. ABBOTT, ADMINISTRATIVE ASSISTANT
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Board of Healing Arts

TO: Senate Committee on Public Health & Welfare
FROM: Richard G. Gannon, Executive Director
DATE: March 16, 1989
RE: TESTIMONY ON HOUSE BILL NO. 2161

This Bill, as originally drafted, is incorporated with several recommendations which were made to the Board by the Physical Therapy Examining Committee. Several of these issues appear to be controversial as noted by committee staff and by the amendments made by the House Committee. As a result, my purpose in appearing before you today is not so much to support the Bill, but rather to serve as a resource to this committee and also express some observations as to the language of the Bill as it has been amended by the House Committee. I will not touch on all of the aspects of the Bill, but wish to briefly review the following provisions:

1. Registration of Physical Therapist Assistants.

This was one of the changes suggested by the Physical Therapy Examining Committee that is meant solely to bring the credentialing nomenclature for Physical Therapist Assistants into conformity with the Kansas Act for Credentialing. There was no intent on the part of the Board to in any way increase the credentialing status of Physical Therapist Assistants.

2. Qualifications of Physical Therapist Assistants.

The Physical Therapy Examining Committee recommended that Physical Therapist Assistants be credentialed only following formal educational programs. Therefore, lines 120 and 121 were originally deleted on page 4 of the Bill, but as you can see, were reinstated by the House Committee to enable Physical Therapist Assistants to be credentialed without formal education.

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SP4/W
3-16-89
Attachment 5

3. Temporary Permits.

Subsection c of section 5 at lines 173 through 180 of page 5 would statutorily create a temporary registration. It appears that for the last twenty-three years the Board has had a rule and regulation enabling the issuance of a temporary permit for individuals "coming into the State and making application for registration at an interim period between examinations ...". It was noted by the Board's General Counsel that there was no statutory authority for this temporary registration. Therefore, this section was recommended to be included by the Physical Therapy Examining Committee. It should be pointed out that if this section is enacted as presently worded, the statutory authority to grant a temporary registration would only exist once an applicant has met all requirements for registration, including passage of the required examination. Therefore, the issuance of temporary permits would be much more restrictive than that now allowed under the present Board rule and regulation.

4. Renewal Process.

Lines 215 through 220 of the Bill would require Physical Therapists to provide proof of insurance and payment of the surcharge to the Fund as a condition for renewal. This would bring Physical Therapists, who are health care providers under the Health Care Provider Insurance Availability Act, into conformity with the requirements imposed upon Podiatrists and the licensees of the three branches of the healing arts. The remaining portions of section 6 were intended by the Board to bring the renewal process for physical therapy into conformity with that now in existence for Podiatrists and the licensees in the three branches of the healing arts as well as for Physician Assistants as recommended in Senate Bill 183 which has passed by the Senate this session. However, one concern has been raised by the Board's General Counsel that the deletion of the language in lines 206 through 214 and 246 through 262 on pages 6 and 7 leaves Physical Therapists and Physical Therapist Assistants without a statutorily created expiration date for their registrations. Although subsection a of section 6 requires a registrant to apply to renew during each January, no expiration date is specifically stated. Therefore, it is felt that some language should be inserted in subsection c to reflect an expiration date, or that language be inserted in subsection f to enable the Board to establish an expiration date by rule and regulation.

5. Fees.

Section 7 of the Bill establishes new fees and fee categories for these registrants. Presently, only one statutory maximum exists as set out in K.S.A. 65-2910 of the Physical Therapy Act. This provision would provide more authority for the Legislature to set maximum statutory fees. The provisions would also create more continuity across the board by establishing the same type of fee categories as is in the Healing Arts Act, the Podiatry Act and in Senate Bill 183 pertaining to Physician Assistants.

6. Section 10(c).

It was my understanding that this subsection was amended by adding this additional language at lines 383 through 387 by the House Committee in order to make Physical Therapy services more available in outlying communities. It was my understanding that the concerns in the House Committee were that there are a number of hospitals, particularly in rural areas, that are unable to obtain the services of a consulting Physical Therapist. As a result, the Physical Therapist Assistants cannot perform any physical therapy since the statute requires that the patients be first seen by a Physical Therapist who shall then be obligated to evaluate them periodically. The Board has taken the position in support of a Physical Therapist Assistant providing physical therapy services pursuant to a doctor's order rather than waiting for a Physical Therapist to first see the patient. The concern I have as to the house amendment is that it would enable a Physical Therapist Assistant to initiate treatment by the physician's order rather than the Physical Therapist's order, but it does not solve the problem in the rural communities that a Physical Therapist must still provide minimum weekly review of patient care. For those hospitals who cannot obtain the services of a Physical Therapist, this amendment would have no benefit whatsoever. The Board has taken the position in support of a Physical Therapist Assistant providing physical therapy services pursuant to a doctor's order rather than waiting for a Physical Therapist to first see the patient.

My apologies for the length of this presentation and I am happy to provide any information or answer any questions you might have about this Bill.

RGG:LTB:bj

STATE OF KANSAS



DEPARTMENT OF HEALTH AND ENVIRONMENT

Forbes Field

Topeka, Kansas 66620-0001

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Mike Hayden, *Governor*

Stanley C. Grant, Ph.D., *Secretary*

Gary K. Hulett, Ph.D., *Under Secretary*

Testimony presented to

Senate Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

House Bill No. 2121

Background

In 1988, at the request of the Kansas Department of Health and Environment, the legislature amended K.S.A. 65-504 to prohibit reapplication for a child care license following a final order by the Secretary to revoke the license as a result of serious regulation violations. The legislature also amended K.S.A. 65-517 to prohibit reapplication for a certificate of registration following a final order to revoke the certificate because of serious deficiencies.

After the bill was passed it became apparent that even though persons were prohibited from reapplying for a day care home license, they could immediately apply for a certificate of registration and continue to provide child care. By the same token, persons whose certificates of registration were revoked could apply for a day care home license and experience no cessation of child care.

Issues

The purpose of this proposed legislation is to correct this apparent oversight by prohibiting either licensure or registration for a year after legal closure. Thus, child care providers who jeopardize the health and safety of children by serious violations will be prohibited from providing any type of child care for one year following issuance by the secretary of a final order to close.

The benefits of this legislation are primarily for the children and families who are potential users of child care services. Administrative procedures in the department will need very little modification as a result of passage of this bill.

Recommendation

The Kansas Department of Health and Environment recommends passage of this bill.

Presented by: Richard J. Morrissey, Director
Bureau of Adult and Child Care
Kansas Department of Health and Environment
March 16, 1989

Office Location: Landon State Office Building—900 S.W. Jackson

S R/W
3-16-89
Attachment 6

Cheryl A. Carpenter, CPTA
15098 Stearns
Stanley, KS 66221
(913) 897-4317

Mr. Chairman and members of the Public Health and Welfare Committee.
My name is Cheryl Carpenter. I am a Physical Therapist Assistant certified in Kansas. I am addressing HB 2161. In 1986 I testified on a similar proposed bill before this committee. The issue then, as it does now, addressed supervision of the PTA if the Physical Therapist was not available.

I realize the problem in Western Kansas of the shortage of Physical Therapy services continues to exist as it did in 1986. But I do not feel the impact of the following ammendments has been fully realized.

The House Committee ammendment on line 383 through line 387 would allow the PTA to initiate treatment by the physicians orders according to written protocol established by the Physical Therapist with minimum weekly review of patient care by the Physical Therapist, if the Physical Therapist is not available for immediate contact.

In this ammendment, I question where the liability rests if something were to go awry during the initial treatment rendered by the Physical Therapist Assistant. Does the responsibility rest on the Physical Therapist who developed the protocol, the Physical Therapist Assistant who followed the protocol or the Physician who ordered the patient treatment? I feel this question of liability needs to be thoroughly examined prior to the creation of a new law.

Secondly, I address the House Committee ammendment which allows the current "grandfather clause" to stand in line 122 through 123. The

S. P. K. W.
3-16-89
Attachment 7

scenario that disturbs me is the fact of the variability of credentials. If the Physician would be allowed to direct the Physical Therapist Assistant to initiate treatment, he should be led to believe he has placed his patient's care in the hands of a Physical Therapist Assistant who has graduated from an accredited school. Physical Therapist Assistant schools provide the graduate PTA with more than on the job training. Schools provide the graduate Physical Therapist Assistant with the contraindications surrounding treatment and theory behind the application of treatment, which can not be obtained through on the job training that many aides receive.

I believe consumer protection remains a major issue to be considered. An initial evaluation should be provided by the Physical Therapist and medical insurance reimbursement sometimes is contingent on the initial evaluation being performed by the Physical Therapist.

To be falsely led down the path that supervision of the Physical Therapist Assistant by Physicians will increase the Physical Therapy services in the rural setting is irresponsible. The Physical Therapist Assistant should continue to be supervised by the Physical Therapist.

I would encourage your defeat of this bill until issues that have been raised today can be thoroughly examined and answers provided to concerned parties.

Thank you for the opportunity to testify today. If you have any questions I will be happy to answer them at this time.

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