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2/13/90
Date *sh*

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin L. Littlejohn at
Chairperson

423-S a.m./p.m. on February 7, 1990 in room 423-S of the Capitol.

All members were present except:

Representative Jessie Branson, excused

Committee staff present:

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

Conferees appearing before the committee:

Rex Lee, M.D. St. Joseph Hospital, Wichita, Kansas
Harold Riehm, Kansas Osteopathic Society
Larry Buening, General Counsel, Board of Healing Arts,
Chip Wheelen, Kansas Medical Society
Bob Williams, Kansas Pharmacists Association
Marvis Leary, (Representing Dean of Wichita State University)
Dean M. Diane Roberts
Nancy Conley, Kansas Academy of Physicians' Assistants
Nancy McKensie, Hospital Administrator at Greenwood County Hospital
Representing Kansas Hospital Association
Greg Boxburger, M. D., Wichita, Kansas
Steve Asbury, P. A., P.A. Advisory Committee, Norwich, Kansas

Printed testimony from Sumner County Family Care Center,
Wellington, Kansas, Larry R. Anderson, M.D.

Chair called meeting to order and welcomed Pharmacists who were in attendance, inviting Bob Williams to introduce them. Mr. Williams invited those Pharmacists present to introduce themselves. They were from all over the state of Kansas.

Chair drew attention to a bill request. He had been contacted by Speaker Braden in regard to the introduction of a bill that would legislate no smoking areas in a nursing home situation. Chair explained the bill. Motion to introduce this bill made by Chairman Littlejohn, seconded by Rep. Sader, motion carried. (Attachment No. 1).

Chair called attention to minutes for February 5, and 6th. Rep. Amos moved these minutes be approved as written, seconded by Rep. Wiard, motion carried.

HEARINGS BEGAN ON HB 2595.

Dr. Rex Lee, Wichita, Kansas stated he was a practicing physician and has had Physicians' Assistants in his program since 1975. He is convinced that program is working very well, therefore HB 2595 is unnecessary. The Physicians' Assistants play a useful role in Kansas and there is no need for obstacles to interfere in a program that is working without problems. He noted at times there are errors, he has made them himself, but he commended the Pharmacists, and if there has been an error, they will call and notify the physician. He noted also, a patient does not feel there is ever a "minor problem" in regard to their health. He asked HB 2595 not be passed out of committee. He answered a few questions.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30/a.m./p.m. on February 7, 1990

HEARINGS ON HB 2595 CONTINUED.

Harold Riehm, Kansas Osteopathic Society spoke to HB 2595, (Attachment No. 2). He noted their Association is in support of some provisions in HB 2595, and in opposition to others. He spoke of the progression of regulations in the PA program, noting concerns of defining or understanding what constitutes "direction/supervision" by the responsible physician over activities of a PA. He recommended language changes on HB 2595, i.e., Page 6, line 27 to omit "and continuous", and insert "at least weekly", omit all of (b) (2) on Page 6, and renumber (3) and (4) as (2) and (3), then to change (b) to (c). He noted they feel the PA program is running more smoothly than it ever has; current regulations are sufficient, and HB 2595 isn't actually needed. He answered questions, i.e., no problem with even more frequent review or followup than "weekly", perhaps, "review in a timely manner" as suggested by Staff would be better: yes, the definition of "clearly minor problems" is very broad. There was discussion in regard to positive/negative formulary as well.

Larry Buening, General Counsel for State Board of Healing Arts, (see Attachment No. 3), spoke to HB 2595. He noted Richard Gannon, Executive Director of Board has prior commitments at University of Kansas Medical Center this date, so Mr. Buening would present the comments for Mr. Gannon. At this time he introduced a member of their Board, Dr. Kenneth Wedel from Minneapolis, Ks. a member of their Board attending this meeting today. He then proceeded with testimony, noting the Board has struggled with its role in regulation of PA/s and welcomed the work done this past Interim Session on these issues, and he commended that committee. They have several members of the Board express concerns about the effect of new language proposed would have on those in rural areas, and suggested language be added to allow for greater flexibility for them. He called attention to other areas in the bill, for informational purposes, not to express a formal position of their Board, i.e., Section 1 (c) in regard to renewal applications; Section 1 (e) (2), this would delete ability of their Board to issue temporary registration for PA.s; Section 1(e) (7), in regard to fees for documents issued; Section 3 (b) may contradict K.S.A. 75-702 and 22a-104, and he suggested perhaps "the Board shall request the Attorney General or County or District Attorney of the proper county to institute appropriate legal action under K.S.A. 65-2857, and 65-2862 and amendments to such sections". Their Board has specifically endorsed additions to Statutes in Section 4, pages 6 and 7 of the bill he said. He spoke also of supervision and direction required of ARNP's is adequate. He answered questions.

Chip Wheelen, Kansas Medical Society, (Attachment No. 4), expressed their opposition to HB 2595 in its current form. Their Society agrees that PA's should be accountable to the responsible physician and in turn the responsible physician should be accountable to the State Board of Healing Arts. For the most part, that is what HB 2595 would accomplish if it were enacted. They are however concerned with language on Pages 6 & 7 regarding to supervision of patient services from a remote location. We believe, he said, that imposing new requirements in regard to supervisory capacity and could actually impair delivery of health care. He recommended amendments, i.e., by deleting entirely clauses (2), (3), (4) of subsection (b) of Section 4. If these amendments were adopted, then they bill would become acceptable to the Medical Society. He answered questions.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-SStatehouse, at 1:30 a.m./p.m. on February 7, 1990

HEARINGS ON HB 2595 CONTINUED.

Bob Williams, Kansas Pharmacists Association, (Attachment No. 5) spoke to the support of HB 2595. They support the maintaining of a positive formulary of all drugs for which a PA may transmit a prescription order. A positive formulary coupled with written protocols will go a long way to eliminate confusion regarding transmittal of prescription orders by a PA. We note however, HB 2595 does not designate where those protocols are to be kept, does not mention who may review. We would suggest these protocols be kept/maintained by the responsible physician and be made accessible to the general public. He encouraged the support of HB 2595.

Speaking for Dean Diane Roberts of Wichita State University, was Ms. Marvis Leary, (Attachment No. 6). She spoke to the curriculum at their University in that, classes began in 1973 for the PA program, and have now progressed from a certificate program to the granting of a baccalaureate degree. She highlighted the strengths of this program, the objectives, demand for positions for PA's. They would recommend current legislation in regard to the PA program remain unchanged, she asked HB 2595 be killed in committee. She answered questions, the National trend is for a Baccalaureate program; out of 52 programs in the country, only 7 are 2 year programs.

It was noted here by the Chair, the legislature has not authorized a baccalaureate program in Kansas for PA's.

Nancy Conley, Member of Board of Directors, Kansas Academy of PA's, (Attachment No. 7) spoke in opposition to HB 2595, noting it is unnecessary legislation. Concerns, i.e., it would be disenfranchising for anyone who might currently be between jobs, a female on maternity leave, one who might be ill or on disability leave, faculty members who might not choose to be practicing clinically all the time. Further, no provision is made for temporary registration of new graduates; to delete language on transmittal of prescriptions would handicap the practice of the physician; needless dollars spent for duplicating exams; how can "clearly minor problems" be defined; requiring written protocol detailing every disease/injury would be a bureaucratic nightmare. She urged that HB 2595 be killed.

Nancy McKenzie, Hospital Administrator in Eureka, Kansas represented the Kansas Hospital Association this date. (Attachment No. 8) She noted in underserved areas, they are fighting an uphill battle. Should HB 2595 be passed, it will add one more obstacle. It would eliminate PA's from seeing new patients initially with new problems, unless those problems are "clearly minor problems". This language is undefinable.

Greg Boxburger, M.D. noted he feels this is an important issue. He is a cardiologist and has used PA's extensively. He outlined their duties in his office setting. He noted this legislation be not passed. He has two concerns, (b) (2), if this is the Tennessee language, he thinks it should be returned to Tennessee. A patient does not consider "a minor problem" when their health is concerned. Also the positive formulary is unduly restrictive and does not aide in care giving. Good communication between the physician and pharmacist and the patient is better than the use of a positive formulary.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30 a/m./p.m. on February 7, 1990

HEARINGS CONTINUED ON HB 2595

Steve Asbury, PA and member of PA Advisory Committee spoke in opposition of HB 2595. The bill is unnecessary. Existing laws are satisfactory. Last year SB 183 was implemented, and we are just now working to implement that legislations requirements. If passed HB 2595 as written would be like "throwing the baby out with the bathwater". He outlined concerns; legislation passed in 1988 that were not needed; same with 1989; it is harmful to the elderly, indigent; the Tennessee language is not what we need for Kansas. We need to send it back to those people who talk as slowly as I do, he said. He is hopeful this bill will be killed. (Attachment No. 9.)

Chair drew attention to (Attachment No. 10) that is printed testimony from Sumner County Family Care Center, given by Dr. Larry Anderson.

HEARINGS CLOSED ON HB 2595.

Chair thanked all conferees and members for their cooperation.

Chair noted hearings scheduled for HB 2755 this date will be held at committee meeting tomorrow, 1:30.

Meeting adjourned 3:02 p.m.

VISITOR REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

DATE Feb 7, 1990

NAME	ORGANIZATION	ADDRESS
Steve Asbury	Ks Acad of PAs	Wichita, Ks
Helen Stephens	✓	Topeka
Cleanse Mad Bull	Washburn Univ.	Eudora, Ks
Stephanie Smith	Washburn Univ.	Topeka
Laura Mason	Washburn Univ.	Topeka
Betty Conger	Washburn Univ.	Topeka
Julie Denhart	KPHA	Topeka
Tommy Voats	KPHA	Girard, Ks
Jerry Leopold	Ks Optometric Assoc.	McPherson
John M. Bangalore	KPHA	Lawrence, Ks
Tom Hitchcock	Bd. of Pharmacy	Topeka
Nancy S. Coule	KS Academy of PAs	Goddard, Ks
Francis Fay	WSU PA Dept	Wichita, Ks.
R. Rex Lee M.D.	Priv. Physician	Wichita, Kans
H. B. Brown MD	Private Physician	Wichita, Ks
Stevens B. Acker MD	Private Physician	Wichita, Ks
Congie Acker, RPA-C	Ks Academy of PAs	Wichita, Ks.
Kenneth D. Dwyer	Doct. in Dent	Minneapolis, Ks
Kayla	Ks. Society of Med Tech.	Topeka
D. J. Sedlacz	Ks Pharmacist Assoc	Chanute
Frank W. Masters	Ks Pharmacist Assoc.	Pittsburg
Chip Wheeler	Ks Medical Soc.	Topeka
Ed Boyd	Ks. Pharmacist Assoc.	Wichita

9:00-

HOUSE BILL NO. _____

By

AN ACT concerning smoking in public places; relating to smoking in adult care homes; amending K.S.A. 21-4009 and 21-4010 and repealing the existing sections.

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

Section 1. K.S.A. 21-4009 is hereby amended to read as follows: 21-4009. As used in this act: (a) "Public place" means enclosed indoor areas open to the public or used by the general public including but not limited to: Restaurants, retail stores, public means of mass transportation, passenger elevators, adult care homes, health care institutions or any other place where health care services are provided to the public, educational facilities, libraries, courtrooms, state, county or municipal buildings, restrooms, grocery stores, school buses, museums, theaters, auditoriums, arenas and recreational facilities.

(b) "Public meeting" includes all meetings open to the public.

(c) "Smoking" means possession of a lighted cigarette, cigar, pipe or any other lighted smoking equipment.

(d) "Adult care home" means an adult care home licensed under the adult care home licensure act.

Sec. 2. K.S.A. 21-4010 is hereby amended to read as follows: 21-4010. (a) No person shall smoke in a public place or at a public meeting except in designated smoking areas.

(b) Smoking areas may be designated by proprietors or other persons in charge of public places, except in passenger elevators; school buses; public means of mass transportation; reception areas, recreation areas, meeting rooms and dining areas of adult care homes; and any other place in which smoking is prohibited by the fire marshal or by other law, ordinance or

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regulation.

(c) Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas.

Sec. 3. K.S.A. 21-4009 and 21-4010 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

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Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

February 7, 1990

1260 S.W. Topeka
Topeka, Kansas 66612
(913) 234-5563

TESTIMONY ON H. B. 2595

Mr. Chairman and Members of the House Public Health Committee:

My name is Harold Riehm and I represent The Kansas Association of Osteopathic Medicine. I appear in support of some provisions of 2595 and in opposition to others. Questions many physicians have not only about the role of physicians' assistants, but about whether they should even be a part of our health care systems, currently give way to the acute problems of insufficient physician population in many rural parts of our State.

KAOM has consistently supported "toughening" of the statutes and rules and regulations of The Board of Healing Arts, toward a clearer definition of the practice prerogatives permitted P.A.s and the specific responsibilities of the responsible physicians who supervise them.

However, as we testified during the summer, in light of almost annual changes in recent years we think inadequate time has been directed at assessing the impact of numerous recent changes. In the 1987 Session, major changes were made in Substitute for S.B. 35. Pursuant to provisions of that Act, the Board of Healing Arts, in 1988, added numerous new rules and regulations.

A statutory change provided that a responsible physician's license could be revoked or suspended if he or she failed to adequately direct and supervise the P.A. according to Kansas Statutes and Board Rules and Regulations. Also as required by this Act, the Board provided four instances in which a P.A. may perform acts which constitute the practice of medicine:

- a. When directly ordered by the responsible physician through immediate or physical presence.
- b. When directly ordered, authorized and coordinated by the responsible or designated physician through radio, telephone, etc.
- c. When authorized by a written protocol between the responsible physician and the P.A.
- d. In the case of an emergency situation.

Much of the effort--and the problem--has been in defining or understanding what constitutes "direction and supervision" by a responsible physician over the activities of a P.A. Statutorily, "direction and supervision" is defined in KSA 65-2897a (see page 8, lines 17-29 of H.B.2595). Current provisions of Board rules and regulations (copied on the attached page) further define supervision and direction. Along with provisions for written protocols, these were added in 1988.

Regarding the specific suggestions of KAOM, please see the reverse side of this page.

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25 (b) (1) To ensure that the responsible physician's directions and
26 advice are in fact being implemented, the responsible physician shall
27 exercise an active ~~and continuous~~ direction and supervision of the
28 physician assistant's activities. The responsible physician shall make
29 a personal review of historical, physical and therapeutic data on all
30 patients and their condition, and so certify by signature in a timely
31 manner.

Omit: "and continuous"

Insert: ", at least weekly,"

32 (2) With the exception of clearly minor problems, before a phy-
33 sician's assistant may provide patient services to a new patient of
34 the responsible physician, or to a regular patient of the responsible
35 physician expressing a new or previously untreated condition, that
36 patient shall be personally evaluated by the responsible physician.

37 (3) The physician's assistant may provide emergency patient serv-
38 ices in accordance with guidelines previously established by the re-
39 sponsible physician pending the arrival of a physician in cases where
40 immediate diagnosis and treatment are necessary to avoid disability
41 or death.

Omit all of (b)(2)
and renumber (3) & (4)
as (2) and (3)

42 (4) In exercising direction and supervision over the activities of
43 the physician's assistant, the responsible physician may utilize written

1 protocols consistent with the provisions of K.S.A. 65-2896 to 65-
2 2897a, inclusive, and amendments thereto, and consistent with any
3 rules and regulations adopted pursuant to such statutes.

4 (b) (c) A physician's assistant may not prescribe drugs but may
5 transmit a prescription order for drugs pursuant to a written pro-
6 tocol as authorized by the responsible physician. Each written pro-
7 tocol shall contain a precise and detailed medical plan of care for
8 each classification of disease or injury for which the physician's
9 assistant is authorized to transmit prescription orders and shall spec-
10 ify all drugs which may be transmitted by the physician's assistant.

CURRENT RULES AND REGULATIONS OF THE KANSAS STATE BOARD OF HEALING ARTS DEALING WITH
PHYSICIANS' ASSISTANTS - RELEVANT TO TESTIMONY OF KAOM

- 100-60-8 SCOPE OF PRACTICE OF PHYSICIANS' ASSISTANTS
100-60-9 WRITTEN PROTOCOLS
100-60-10 SUPERVISION AND DIRECTION; ADEQUACY
100-60-11 RESPONSIBILITIES OF PHYSICIAN'S ASSISTANTS.

100-60-8. Scope of practice. A physician's assistant may perform acts which constitute the practice of medicine and surgery in the following instances:

(a) When directly ordered, authorized and coordinated by the responsible or designated physician through immediate or physical presence;

(b) when directly ordered, authorized and coordinated by the responsible or designated physician through radio, telephone or other form of telecommunication;

(c) when authorized by a written protocol between the responsible physician and the physician's assistant; or

(d) in the case of an emergency situation. (Authorized by K.S.A. 65-2896, as amended by L. 1987, Ch. 240, Sec 12; implementing K.S.A. 65-2896e, as amended by L. 1987, Ch. 239, Sec. 7; effective May 1, 1988.)

100-60-9. Written protocol. (a) Any written protocol between the responsible physician and the physician's assistant shall, as a minimum:

(1) Be in writing, dated and signed by the responsible physician and the physician's assistant;

(2) state the license number of the responsible physician and the board issued registration number of the physician's assistant;

(3) generally designate the clinical areas in which the physician's assistant may provide professional services without a direct authorization or order from the responsible or designated physician;

(4) specify the professional services the physician's assistant is prohibited from performing;

(5) specify the drugs for which the physician's assistant is prohibited from supplying, administering or transmitting prescription orders;

(6) specify those practice locations at which the physician's assistant is authorized to perform acts which constitute the

practice of medicine and surgery in the absence of the immediate or physical presence of the responsible or designated physician; and

(7) specify any designated physician who shall routinely provide direction and supervision to the physician's assistant in the temporary absence of the responsible physician.

(b) A current copy of the written protocol shall be provided to the board and maintained at the usual practice locations of the responsible physician. (Authorized by K.S.A. 65-2896, as amended by L. 1987, Ch. 240, Sec. 12; implementing K.S.A. 65-2896, as amended by L. 1987, Ch. 240, Sec. 12; implementing K.S.A. 65-2896e and 65-2897a, as amended by L. 1987, Ch. 239, Sec. 7 and 8; effective May 1, 1988.)

100-60-10. Supervision and direction; adequacy. Each licensee who serves as the responsible or designated physician for a physician's assistant shall adequately direct and supervise the physician's assistant. Direction and supervision of the physician's assistant shall be considered to be adequate if the responsible physician:

(a) Establishes a method for the initial and continuing periodic evaluation of the professional competency of the physician's assistant. Periodic evaluations shall be performed at least annually and the responsible physician shall document and retain such evaluations and make them available to the board upon request;

(b) at least annually, reviews any written protocol and determines if any amendments, modifications, restrictions or terminations are required. Any such changes shall be conveyed to the physician's assistant and set forth in all copies of the protocol required to be maintained and provided pursuant to K.A.R. 100-60-9(b);

(c) actively engages in the practice of medicine and surgery in this state at least an average of 20 hours per week;

(d) insures that the physician's assistant has a current registration issued by the board;

(e) reports to the board any knowledge of disciplinary hearings, formal hearings, public or private censure or other disciplinary action taken against the physician's assist-

ant by any state's licensure or registration authority or any professional association; (f) reports to the board any litigation, threatened litigation or claim alleging professional incompetency or professional negligence on the part of the physician's assistant;

(h) at least weekly, reviews the patient records of patients treated by the physician's assistant and documents such review in the patient record;

(i) reviews patient charts and documents such review in the patient record within 48 hours of treatment provided by the physician's assistant when:

(1) The patient has been treated or seen by the physician's assistant in a medical facility as that term is defined in K.S.A. 65-425 and amendments thereto; or

(2) the treatment provided in an emergency situation exceeded the authority granted to the physician's assistant pursuant to direct order or a written protocol.

(j) provides for a designated physician to provide supervision and direction on each occasion when the responsible physician is absent temporarily, is unable to be immediately contacted by telecommunication or is otherwise unavailable at a time the physician's assistant could reasonably be expected to provide professional services; and

(k) delegates to the physician's assistant only those acts which constitute the practice of medicine and surgery which the responsible physician believes or has reason to believe can be competently performed by the physician's assistant based upon the physician's assistant's background, training, capabilities, skill and experience. (Authorized by K.S.A. 65-2896, as amended by L. 1987, Ch. 240, Sec. 12; implementing K.S.A. 65-2896e and 65-2897a, as amended by L. 1987, Ch. 239, Sec. 7 and 8; effective May 1, 1988.)

100-60-11. Responsibilities of physician's assistants. (a) A physician's assistant shall appropriately communicate with the responsible or designated physician concerning a patient's condition if the physician's assistant determines that a patient's condition requires treatment of any nature which has not been authorized for the physician's assistant to perform. (Authorized by K.S.A. 65-2896, as amended by L. 1987, Ch. 240, Sec. 12; implementing K.S.A. 65-2896e and 65-2897a, as amended by L. 1987, Ch. 239, Sec. 7 and 8; effective May 1, 1988.)

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2-7-90
Attm #2
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State of Kansas

Office of

RICHARD G. GANNON, EXECUTIVE DIRECTOR
LAWRENCE T. BUENING, JR., GENERAL COUNSEL
JOSEPH M. FURJANIC, DISCIPLINARY COUNSEL
SUSAN LAMBRECHT, LICENSING SUPERVISOR



Kansas State Board of Healing Arts

235 S. TOPEKA BLVD.
TOPEKA, KS 66603
LICENSURE 913 296 7413
DISCIPLINARY 913 296 7942

Board of Healing Arts

MEMORANDUM

TO: House Committee on Public Health and Welfare
FROM: Richard G. Gannon, Executive Director
DATE: February 7, 1990
RE: Testimony on House Bill No. 2595

Thank you very much for the opportunity to appear before you and present testimony on House Bill 2595. The Board, for a number of years, has struggled with its role in the regulation of physicians' assistants and the legislative desires and intent regarding the manner in which physicians' assistants are credentialed.

Over the last few years, the Board has had increasing concerns about the services being provided by physicians' assistants and the quality and quantity of supervision and direction given to the physicians' assistants by responsible physicians. Several of the existing statutes seem to be in conflict. Therefore, the work and time devoted by the special committee on public health and welfare this past interim session on these issues was welcomed by the Board.

Prior to the last meeting on December 8-9, the Board members were presented with the preliminary mark-up dated November 27, 1989 prepared by legislative staff. At its meeting November 27-28, the special committee did make certain changes and additions to this preliminary draft. Board staff attempted to advise the Board as to the nature of these amendments.

During its meeting in December, the primary focus of the Board in discussing what is now House Bill 2595 was the additional language added in Sec. 4 at pages 6 and 7. After considerable discussion, the majority of the Board present at the December Board meeting voted to support this language, which basically comes from existing statutes in the State of Tennessee. The Board was aware these changes would have substantial effect on the ability of physicians to continue to have "satellite clinics" which are staff-

MEMBERS OF BOARD

JOHN P. WHITE, D.O., INTERIM PRESIDENT
PITTSBURG

FRANKLIN G. BICHELMEIER, M.D., SHAWNEE MISSION
DONALD B. BLETZ, M.D., OVERLAND PARK
HAROLD E. BRYAN, D.O., FORT SCOTT
JIMMY V. BULLER, D.O., PARSONS
EDWARD J. FITZGERALD, M.D., WICHITA
PAUL T. GREENE, JR., D.O., GREAT BEND
GLENN J. KERBS, D.D.S., OMAHA

CAMERON D. KNAKASTEDT, D.O., PALLAS
GRACIELA MARION, D.D.S., PALLAS
IRWIN WAXMAN, D.R.M., PRAIRIE VIEW
KENNETH D. WEDEL, M.D., MANASSAS
REX A. WRIGHT, D.O., PALLAS

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Memo to House Committee on
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ed primarily by physicians' assistants. Several members of the Board expressed concerns about the effect this new language could have on underserved, primarily rural areas and suggested there be some language which would allow greater flexibility in these areas. Further, the Board is aware that the addition of this language could substantially curtail the activities of physicians' assistants who are employed by a hospital or work primarily for their responsible physician in a hospital setting. However, the majority of the Board was of the position this additional language did ensure greater involvement by the responsible physician in patient care and a higher degree of supervision and direction over the physician's assistant and, therefore, is preferable to the existing situation and statutes.

Other than above noted, the Board took no further position with regard to House Bill 2595. However, as Executive Director for the Board, I felt the committee should be made aware of certain provisions of this bill and the impact they have. The following comments are made solely for informational purposes to the committee and are not intended to express the formal position of the Board of Healing Arts.

- (a). Section 1(c). This new language would require the Board to send renewal applications to both the physician's assistant and the responsible physician (page 2, line 37). Yet, as provided in Sec. 1(b) of the bill, the application for renewal of a physician's assistants' name on the register to be maintained by the Board is to be submitted only by the responsible physician. Board staff felt this may be an unnecessary duplication of effort to provide the renewal notice to both the P.A. and the responsible physician and also created the possibility of duplicate renewals being received.
- (b). Section 1(e)(2). This section would delete the ability of the Board to issue temporary registrations for physicians' assistants. The Board meets once every two months. At the present time, the Board has had a longstanding policy of approving applications for permanent licensure and registration at its meetings in June and December. This makes for a much more simplified and easier means of processing these applications. This new section could require the Board to act upon applications for P.A. registry at each of its meetings since under K.S.A. 65-2896c, a P.A. could not represent himself or herself as such unless their name had been entered on the register. Even if the Board approved applications at each meeting, there still may be as much

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as a two-month lapse from the receipt of an application until the Board acts to approve that application, during which time the physicians' assistant name could not be entered on the registry.

- (c). Section 1(e)(7). The section for a statutory fee for copies of any document issued by the Board to indicate an individual's name has been placed on the P.A. register is deleted. These fees have normally been paid and charged whenever the certificates which have been previously issued have been lost or the P.A. has had a name change due to marriage, divorce, etc. The deletion of this statutory authority would appear to preclude the Board from charging a fee for any such copies of whatever document would be issued as evidence that the P.A.'s name has been entered on the registry.
- (d). Section 3(b). The language of this subsection at line 43 may contradict K.S.A. 75-702 and 22a-104 which requires either the Attorney General's office or the District Attorney to appear on behalf of the State. Certainly it would be unusual for the Board to actually institute any criminal action under K.S.A. 65-2862. Therefore, perhaps a better manner of handling this would be to have line 43 on page five read as follows:

" . . . the Board shall request the Attorney General or County or District Attorney of the proper county to institute appropriate legal action under K.S.A. 65-2857 and 65-2862 and amendments to such sections."

In conclusion, the Board has specifically endorsed the additions to K.S.A. 1989 Supp. 65-2896e as set forth in Section 4 at pages 6 and 7 of the bill. Board staff feels that there may be some additional changes the Legislature may desire, as above stated, in order to more smoothly implement the provisions of this bill. Finally, although passage of this bill would appear to substantially resolve many of the problems with the supervision of physicians' assistants, the bill does not in any way deal with the practices of advanced registered nurse practitioners. ARNP's, at present, perform many of the same functions and duties as a physician's assistant but without formal relationship of a responsible physician. Perhaps the Legislature would also wish to consider whether the supervision and direction being required of ARNP's is adequate under existing nursing statutes and rules and regulations.

Thank you very much for the opportunity to appear before you today. I would be happy to answer any questions you might have.

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Attn: #3
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KANSAS MEDICAL SOCIETY

1300 Topeka Avenue • Topeka, Kansas 66612 • (913) 235-2383
Kansas WATS 800-332-0156 FAX 913-235-5114

February 7, 1990

TO: House Public Health and Welfare Committee
FROM: Kansas Medical Society *Chip Fulkerson*
SUBJECT: House Bill No. 2595; Physicians' Assistants, Regulation thereof

We sincerely appreciate this opportunity to express our opposition to HB2595 in its current form. The 1989 Interim Committee on Public Health and Welfare and its staff have done an excellent job of amending current law in a way that would, for the most part, restore original legislative intent. The Kansas Medical Society concurs that physicians' assistants should be accountable to the responsible physician and in turn, the responsible physician should be accountable to the State Board of Healing Arts. For the most part, that's what HB2595 would accomplish if enacted.

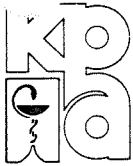
There is, however, one major policy question involved in HB2595. That has to do with the ability of a responsible physician to supervise patient services rendered by a PA from a remote location. We are particularly concerned about the language contained on pages 6 & 7 in subsection b of Section 4. We believe that by imposing new requirements as to the supervisory relationship between the responsible physician and the PA, that the delivery of health care in rural areas could be impaired. In fact, if enacted, the language contained in subsection b of Section 4, could exacerbate access to care problems in rural Kansas.

It is for these reasons that we respectfully request that you amend HB2595 by deleting entirely clauses (2), (3) and (4) of subsection b of Section 4. This would include all of lines 32-43 on page 6 and lines 1-3 on page 7. If such an amendment to HB2595 were adopted, the bill would become acceptable to the Kansas Medical Society.

Thank you for considering our concerns.

CW:lg

*PH&W
2-7-90
Attn # 4*



THE KANSAS PHARMACISTS ASSOCIATION

1308 WEST 10TH

PHONE (913) 232-0439

TOPEKA, KANSAS 66604

ROBERT R. (BOB) WILLIAMS, M.S., C.A.E.
EXECUTIVE DIRECTOR

TESTIMONY

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

February 7, 1990

HB 2595

My name is Bob Williams. I am the Executive Director of the Kansas Pharmacists Association. Thank you for this opportunity to address the committee regarding HB 2595.

In preparing my testimony regarding this issue I discovered files concerning the regulation of "physician extenders" and their prescribing authority dating back to 1977. It appears we have been involved in this process for a number of years.

We are pleased to note that HB 2595 does require the maintaining of a positive formulary of all drugs for which a physician assistant may transmit a prescription order. A positive formulary coupled with written protocols containing a detailed medical plan of care will go a long way to eliminating much of the confusion regarding the transmittal of prescription orders by a physician assistant.

We do note, however, that HB 2595 does not designate where those protocols are to be kept, nor does it mention who may review those protocols. In some cases a pharmacist may need to review the written protocol to determine for which medication a physician assistant is authorized to transmit a prescription order. We therefore suggest the committee designate that the written protocols be kept and maintained by the responsible physician and that those protocols be accessible to the general public.

PA&W
2-7-90
Attm # 5

In conclusion I would like to add that the Kansas Pharmacists Association applauds the efforts of the special committee on Public Health & Welfare in the development of HB 2595. We feel it clearly identifies that physician assistants cannot practice independently of a physician and that the supervision, responsibility of and oversight for the physician assistant clearly lies with the responsible physician--which is where it belongs. We encourage your support of HB 2595.

Thank you.

5



The
**Wichita
State University**

Office of the Dean, College of Health Professions

MEMORANDUM

DATE: February 7, 1990

TO : Special Committee on Public Health and Welfare

FROM: M. Diane Roberts, Dean, College of Health Professions

SUBJECT: Dean's Testimony, House Bill #2595, Role of Physicians' Assistants

The Wichita State University Physician Assistant Program accepted its first class in the Spring of 1973 and has begun a class each Fall since then. The education curriculum has progressed from a certificate program to the granting of a baccalaureate degree. A majority of students come from Kansas and a majority of graduates remain in Kansas to pursue careers.

The Wichita State University Physician Assistant Program received continuing accreditation from the American Medical Association's Committee on Allied Health Education and Accreditation in 1987. The Site Visit Team in its Summary Meeting made the following statements regarding program strengths:

- a. The leadership and support at the college and university level.
- b. The interdisciplinary approach to physician assistant education.
- c. The service orientation of the program and its faculty, plus the department's willingness to work with the college's Health Careers Opportunity Program.
- d. The sound admissions policies of the program and the academic performance and clinical experience of the students.
- e. The mix of the clinical education sites in terms of location (rural and urban) and type (primary care and specialty).

No areas of weakness or concern were noted.

P.H. & W.
2-7-90
Attn #6

Memorandum
Special Committee on Public Health Professions
February 7, 1990
Page 2

The physician assistant curriculum is designed to provide the student with an academic and clinical foundation necessary for assisting the primary care physician in the planning, implementation, and delivery of health care services. This includes the developing of medical skills and technical competency needed in treating individuals of all ages who are in various stages of health. The curriculum is designed to promote the proper moral, ethical, social and legal attitudes attributed to the practice of medicine. The student is expected to develop an appreciation for the health care team and the roles of the physician, the physician assistant, and other health professionals. The emphasis of the Physician Assistant Program is in primary care which allows the graduate to function as a generalist who may develop further specialized skills.

The objectives of the Physician Assistant Program are consistent with the mission of the university in meeting the medical needs of the people of Wichita and the state of Kansas. The program emphasizes education in primary care, particularly in meeting the medical needs of underserved areas and people. Students in the program are educated and trained in many rural and urban underserved areas of the state which meet the needs of special groups of people.

The response of the local medical community to teaching in the academic phase of the program is very positive. Approximately 150 physicians, physician assistants, nurses, health educators and other health care or health related professionals teach in the didactic year.

The program, its students, and faculty have provided services to the Wichita Methodist Urban Ministries, the Hispanic Clinic, the Hunter Health Clinic (formerly the Wichita Urban Indian Center), the Senior Screening Program of the University of Kansas School of Medicine - Wichita, health fairs, dental fairs, and other service activities.

Current demand for program positions is more than adequate to provide excellent students for the program. It is likely that the demand will increase as external factors such as third party payment for physician assistant services, non-baccalaureate program closure, and more recognition of the professions occur.

It is my recommendation, based on these facts, that the current legislation remain unchanged in the state of Kansas. I recommend that House Bill #2595 be killed in the Committee.

PHW
2-7-90
Attn # 6
392.

February 7, 1990

Legislative Committee on Public Health and Welfare
RE: House Bill #2595

Nancy Schiller Conley, RPA-C
Past president and member, Board of Directors, Kansas Academy of
Physician Assistants
Graduate, Wichita State University PA Program-1982

Proposed HB 2595 is an unnecessary measure and is detrimental to the delivery of quality health care in the State of Kansas. The Kansas Academy of Physician Assistants reaffirms the dependent role of the physician assistant to the responsible physician. We believe that specific delegation of duties to the physician assistant is a matter that only the responsible physician is qualified to judge, based upon his or her assessment of the physician assistant's particular skills. We offer the following specific objections to HB 2595:

1. If a physician assistant must be currently employed in order for a responsible physician to make application on his/her behalf for registration, this would disenfranchise:
 - a. Anyone who might currently be between jobs
 - b. The female on maternity leave, which is usually unpaid
 - c. Anyone on extended sick or disability leave
 - d. Faculty members at the Physician Assistant Program who elect not to practice clinically.
2. No provision is made for the temporary registration of new graduates, who must wait five months for the results of the NCCPA exam. To deny the new graduate the right to work in his/her chosen profession is unreasonable.
3. The Kansas State Board of Regents very appropriately sets the educational standards at Regent's Universities. We believe this should continue to be the case.
4. The NCCPA Board Exam is in place and is nationally recognized. Such examinations are very expensive to develop and administer. It would be fiscally irresponsible for the State to spend tax dollars to duplicate this function.
5. To delete the language on transmittal of prescription orders would seriously handicap the practice of any physician who employs a physician assistant, since medication therapy is an integral part of the treatment of most diseases.

*PNW
2-7-90
attn #7*

Nancy Schiller Conley, RPA-C, continued

6. RE: 65-2896e (b)(2)-this would absolutely preclude any physician assistant from practicing in the State of Kansas. Who is to define "clearly minor problems"? The physician or physician assistant? The Board of Healing Arts? The Legislature? The patient who is suffering from that problem and seeking medical attention? Who is to determine whether a problem is "new or previously untreated"? Would the physician assistant be held liable under this law if the patient was found, after the fact, to have been treated for this same problem 40 years ago?
7. The requirement for a written protocol detailing every disease and injury for which the physician assistant might be called upon to provide treatment and the various therapies for same is unwieldy and would be a bureaucratic nightmare. Such a document could conceivably fill several volumes. It would require constant updating. This is clearly a matter that should be at the discretion of the responsible physician.

I urge this committee to consider the welfare of the citizens of Kansas, particularly those in areas of need, where physician assistants are providing much-needed health care, under the direction of their responsible physicians. You can best accomplish this by allowing HB 2595 to die a peaceful death in this committee.

PHW
2-7-90
atlm #7
39.2

GREENWOOD COUNTY HOSPITAL

100 West 16th
EUREKA, KANSAS 67045
Phone 316-583-7451

An Affiliate Of
GPAA
Great Plains Health Alliance

February 7, 1990

My name is Nancy McKenzie. I am the hospital Administrator at the Greenwood County Hospital in Eureka. I am here representing the Kansas Hospital Association. I am also a Physician Assistant and am currently a member of the Physician Assistant Council.

I want to voice my concerns about HB 2595. Rural health care delivery is extremely difficult at the present time. We in the underserved and critically underserved areas are fighting an uphill battle against terrible odds. If HB 2595 is passed, it will add one more obstacle for us to overcome.

Physician Assistants are used in many ways in small rural communities. I believe they increase availability and quality of health care. Physician Assistants reduce the work load of their responsible physician.

HB 2595 would eliminate Physician Assistants from seeing new patients initially and regular patients with "new" problems unless the problems are "clearly minor problems". This language to me is undefinable. Physician Assistants in rural communities often see patients in the Emergency Room and this language would essentially eliminate that duty. This, along with the language dealing with transcription of prescriptions, would greatly limit what a Physician Assistant could do to relieve the burdens of the physician.

As an Administrator, I am vitally interested in the quality of health care available to those in our community and throughout Kansas. I share with you the concern that the State be able to assure the citizens of this State that quality. However, I feel that given time, the Physician Assistant Council working with the State Board of Healing Arts will be able to successfully develop rules and regulations to accomplish our mutual goal.

PNW
2-7-90
attm # 8

Testimony of Steve D. Asbury, Registered Physician's Assistant.

February 7, 1990

Before the: Kansas House of Representatives Committee on Public Health and Welfare
regarding H B 2595.

Mr. Chairman and Committee Members:

I am Co-Chairman of the Physician's Assistant Advisory Council to the Board of Healing Arts, Vice President of the Kansas Academy of Physician's Assistants. I also practice in a rural community.

I am here today to ask you to vote to kill HB 2595.

We feel that this bill is unnecessary. Our existing laws are quite satisfactory. SB 183 that was passed last year updated our laws. We are working now on to implement SB183 and we want to complete the work that we have started.

If passed as it is written HB2595 "throws the baby out with the bathwater". There are provisions in that bill that make it virtually impossible for Physician Assistants to help render health care to those people who are most in need. The people in our rural communities and the indigent and underserved in our urban areas.

HB2595 further does not address temporary registration of new graduates, Physician Assistants program faculty members, and creates a nightmare of bureaucratic paperwork in the guise of precise and detailed protocols.

After rereading this so far, I find myself with an overwhelming sense of frustration.

New rules and regulations were passed in 1988 that were not needed. SB183 passed in 1989, knee jerk legislation that was passed to help a perceived problem, not a real problem; Proposal 45 in the Interim Session to study problems that were the figment of an active imagination, but had no basis in fact.

During the Interim Session, thirteen out of fourteen people who testified said leave the laws alone. Let the new ones have time to work. Don't fix something that isn't broken.

HB2595: This jerks the rug out from under the poorest, the oldest, the most likely unemployed, the underemployed, rural Kansans and those seeking care in indigent and low income clinics. Physician Assistants work to great extent in these areas.

Like you, I am an elected Public Official. I'm Mayor of the small town I live and work in. I believe too often we look at ourselves as regulators. I believe we are elected to be leaders. Lead by helping to find answers to real problems.

The past two years the money the Kansas Academy of Physician Assistants could have used to promote rural health care or help recruit Physician Assistant students from rural areas or minority communities has been spent on reacting to unnecessary and undesirable legislation. Let us put this to an end.

Kill HB2595.

PH & W
2-7-90
attn #9

SUMNER COUNTY FAMILY CARE CENTER

**Joel T. Weigand, M.D.
Larry R. Anderson, M.D.
Mitzi Rattenne, M.D.**

1323 North A
Wellington, Kansas 67152
316-326-3301

February 2, 1990

Representative Marvin Littlejohn
426 South
State House
Topeka, Kansas 66612

Dear Representative Littlejohn:

You chair the House Committee on Public Health and Welfare and have scheduled a discussion on House Bill 2595 for Wednesday, 7 Feb 1990. I was privileged to address the interim committee on physician assistant legislation last year, but fear I will not be able to attend this upcoming meeting.

House Bill 2595 as currently written will have a negative impact on access to health care in many rural Kansas communities. In fact, we will probably be forced to close satellite offices in critically underserved Sumner County rather than risk being out of compliance with some individual's interpretation of this vaguely worded legislation. On page 6, lines 32-36 of this bill, it states that except for "clearly minor" conditions, the patient will be first evaluated by the responsible physician. Legislators must define what is "clearly minor," change the wording entirely, or lay health care providers open to litigation risk.

It would be nice if all patients would get sick on schedule and could be seen in a satellite office while the responsible physician is present. Health care needs are not predictable and it seems inappropriate to pass legislation which in some communities will dramatically limit health care access. Those individuals that need immediate attention are frequently individuals with limited ability to travel distances to neighboring towns where the responsible physician or other health care providers may be found.

Earlier this afternoon, Emilene Carrell explained to me that the intent of this legislation is to try to focus attention to the responsible physician as the point of control of physician assistant activities. Although this is certainly an appropriate intent, I fail to see how this legislation, and especially this wordage, will accomplish that goal. I would welcome calls or contact from any committee member who might have questions I could address.

Sincerely yours,

Larry R. Anderson M.D.
Larry R. Anderson, M.D.

LRA/sw

*Printed Testimony
only*

*PHW
2-7-90
attn #10*