

Approved 3-16-92
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 2, 1992 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Norman Furse, Revisor's Office
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Phil Elwood, Kansas Dental Board
Carl Schmitthenner, Kansas Dental Association
Lawrence Buening, Board of Healing Arts
Candy Bahner, Physical Therapists Association
Joe Furjanic, Kansas Chiropractic Association

Chairman Ehrlich called the meeting to order at 10:00 a.m.

The Chairman announced the minutes of February 24, 25, 26 and 27, 1992, have been distributed to the Committee members for review. The Chairman recognized Senator Hayden who introduced his pages that assisted at the Committee meeting.

Hearing on: SB 603 - Dentists licensed in another state or country practicing dentistry while training as a student.

The Chairman stated that proponent conferee, Dr. David Sayer, was out-of-town, and called upon opponents of the bill. Philip Elwood, representing the Kansas Dental Board, submitted written testimony and appeared before the Committee in opposition to **SB 603**. Mr. Elwood stated there are some general concerns with the bill that would (1) allow dental practice by students without addressing their qualifications, (2) an issue concerning the billing of patients who are treated by a foreign dentist for work performed in a teaching session, and (3) if the bill is passed, the Kansas Dental Board believes it would be prevented from doing its job of protecting the health, safety and welfare of the public. (Attachment 1) It was suggested during discussion that some of the concerns raised by the KDB in regard to continuing education could be addressed in rules and regulations.

Carl Schmitthenner, Kansas Dental Association, submitted written testimony in opposition to **SB 603** and stated the KDA believes that licensing laws exist to protect the people of Kansas, and the KDA strongly oppose allowing unlicensed persons to supervise other unlicensed persons outside a dental school recognized by the Kansas Dental Board. (Attachment 2)

Hearing on: SB 691 - Physical therapists and physical therapists assistants, registration and certification.

Lawrence T. Buening, Board of Healing Arts, submitted written testimony on **SB 691** and stated the bill was requested by the State Board of Healing Arts. While this bill makes some technical amendments to the Physical Therapy Act, several major policy changes in the regulation of physical therapists and physical therapist assistants are included within this Act. Mr. Buening explained the bill in detail and enumerated the proposed amendments which would make substantial changes to the existing law. A balloon of the bill was also submitted that showed additional language regarding an applicant who does not meet certain requirements to provide proof of educational studies equivalent in level and purpose to an educational program approved by the board, and

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON SENATE PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10:00 a.m./p.m. on March 2, 1992

language relating to expiration of a temporary registration or certificate. (Attachment 3)

Committee discussion was in reference to **SB 64** and language in **SB 691**. Mr. Buening stated that if the proposed balloon of the bill is accepted, it would delete the ability of physical therapists and assistants to be able to be certified by the board based upon training and experience and require a formal education. The fee schedule, criminal penalty statute (increased from C to B), and certification of physical therapists assistants were also discussed. (Attachment 3)

Candy Bahner, Physical Therapy Association, submitted written testimony and stated compromise language was drawn up in the form of a balloon of **SB 691** that Mr. Buening submitted to the Committee, however, they are concerned with the addition of licensed chiropractors as a referral source and would like that language deleted from Section 1, page 1, line 40, and in Section 5, page 6, lines 8 and 9 of the bill. (Attachment 4) Ms. Bahner stated there is nothing in the bill that would prohibit anyone from doing what is done by a physical therapist and would like to see new language added, "physical therapy is performed by a physical therapist or certified physical therapist assistant as defined in K.S.A. 65-2906", inserted on page 1, line 25, after the period; and new language inserted on page 6, after line 40, "(c) No person, other than an R.P.T. or C.P.T.A. or person under their supervision can claim to be performing physical therapy."

Joe Furjanic, Kansas Chiropractic Association, submitted written testimony and stated KCA supports **SB 691** in that language on page 1, line 40, permits licensed chiropractors to refer to physical therapists. (Attachment 5)

The Chairman asked for wishes of the Committee on the amendments from the Board of Healing Arts on **SB 691**. Senator Hayden made a motion to accept the amendment offered by the Board of Healing Arts, seconded by Senator Burke. No discussion followed. The motion carried. The Chairman asked for wishes of the Committee on the amendments from the Physical Therapy Association. Senator Burke made a motion to accept the amendments offered by the Physical Therapy Association, seconded by Senator Ward. Committee discussion and explanation by staff followed regarding clarification of amendments offered by the Physical Therapy Association and what amendments are to be included in the motion. The motion was withdrawn, and it was the consensus of the Committee to request staff to draw up language of the proposed amendments of the bill and present same to Committee. Senator Burke made a motion on page 6, line 25 and 40, to adopt Class "C" misdemeanor, seconded by Senator Salisbury. After Committee discussion clarifying the motion, the motion carried.

The Chairman asked for wishes of the Committee on **SB 64**. Amendments were discussed that were proposed by the Kansas Orthopedic Society, Kansas Physical Therapy Association and the Kansas Medical Society, an insertion in the bill, on page 1, line 40, following the stricken material, by inserting "physical therapists may evaluate patients and initiate treatment without a physician's order, but shall not continue such treatment for a period exceeding 21 days from the date of initiating treatment unless a physician's order is obtained." And language on lines 40 and 41 would be deleted. Senator Burke made a motion to adopt the language, seconded by Senator Ward. Committee discussion followed regarding information on direct access to physical therapists not being a problem in other states, and no state has the 21 day referral. Senator Walker made a substitute motion to take the language out of SB 64 and amend it into SB 691, seconded by Senator Ward. Discussion followed regarding the 21 day referral was necessary in the bill and whether to keep the two bills separate. The motion lost. Back to the original motion to adopt the 21 day referral language. The Chairman stated the motion is to adopt the 21 day referral language. No discussion followed. The motion carried. Senator Ward made a motion to combine the language in SB 64 as amended and language in SB 691 into one bill for the Committee to review for final passage, seconded by Senator Burke. After Committee discussion, the Chairman stated that language in SB 64 would be included in SB 691. The motion carried. The meeting was adjourned at 11:00 a.m., and the next meeting is scheduled for March 3, 1992.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3-2-92

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Jerry M... ..

DMU

Joe Fuzanic

KCA

Marilyn Bradt

KINH

David K... ..

KAOA

David Hanzlick

KS Dental Ass'n

Carl Schmittknecht

Ks Dental Assn

Larry Buring

Body Healing Arts

Gene Johnson

KADACA

Sandy Bohmer PT

KPTA

Jeani Raudig PT

KPTA - Manhattan

FRANCES Kastner

KPTA - Topeka

Annette Siebert

KAAA

Alise H. Nida

KIXA

Jerry R. Turner DVM

KVMA

Pat DWAN

Occupational Therapist

Brook Swaab

BCBS

COMMENTS ON S.B. 603
By H. Philip Elwood
of Goodell, Stratton, Edmonds & Palmer
515 South Kansas Avenue, Topeka, KS 66603
Representing the Kansas Dental Board
March 2, 1992

A. What will the current law permit?

1. Workshops, study groups, seminars and other continuing education courses

- Taught by a non-Kansas licensed dentist.

a. The "meeting" at which the teaching occurs must be of the -

i. Kansas Dental Association, or

ii. A like organization approved by the Kansas Dental Board.

b. The Board has within the past year interpreted the current law to allow a Manhattan based organization to conduct a continuing education course taught by a Foreign Licensed Dentist.

2. The Board has been able to discharge its duty to protect the public health, safety and welfare by:

i. Reviewing and approving the organization which sponsors the course;

ii. Reviewing and approving the course conduct; and

iii. Reviewing and approving the qualifications of the course presenter (clinician).

B. What will the Proposed Amendment do?

1. Persons who have no Kansas license will be permitted to practice dentistry in Kansas on Kansas residents.

2. There are no limits on participation in the course of instruction--

- No requirement that the "student" hold a license in another state or country

- No requirement as to previous education or professional qualifications to participate in the course

- No limit on the duration of practice in the state

- No requirement that the students have professional liability insurance coverage

*Senate P. H&W
Attachment #1
3-2-92*

3. Supervision of the students in the course is to be provided by "a clinician." Several issues are unaddressed;

- The supervising clinician need not have a Kansas dental license;
- The clinician may not be the "clinician" who is teaching the course;
- All of the concerns above, as to "students", can be repeated here as applied to the supervising "clinician."

C. Some General Concerns

1. An argument can be made that this change is like the laws of states which have dental schools where the law allows dental practice by students without addressing their qualifications.

--But, Kansas has no dental school and the organizations which propose to sponsor continuing education courses or seminars are not subject to the rigorous standards imposed on dental schools.

2. An issue has surfaced concerning the billing of patients (or their insurance carriers) who are treated by a foreign dentist for work performed in a teaching session.

--Is it contemplated that the work of students on Kansas patients at seminars is to be billed to those patients or the insurance carriers and, if billed, by whom? the student dentist? or by the course sponsor?

3. If this Bill is passed, the Kansas Dental Board believes it will be prevented from doing its job of protecting the public health, safety and welfare.

D. The Kansas Dental Board respectfully requests that S.B. 603 not be approved in this form--

--It is in the public interest to foster high quality continuing education in dentistry, but this does not mean that good purposes should become a cloak for a course of conduct which is potentially harmful--

--If the proposal can be modified to address the Board's concerns, the Board has indicated it could support concept.



Statement by Carl C. Schmitthenner, Jr.
March 2, 1992
SB 603

Mr. Chairman and members of the Committee, my name is Carl Schmitthenner. I am the Executive Director of the Kansas Dental Association, which represents nearly 1200 dentists, or 80 percent of Kansas Dentists. I appear before you today in opposition to SB 603.

The Kansas Dental Association believes that licensing laws exist to protect the people of Kansas. Therefore, we strongly oppose allowing unlicensed persons to supervise other unlicensed persons outside a dental school recognized by the Kansas Dental Board pursuant to K.S.A. 65-1426.

It should be noted that out-of-state and foreign dentists are unlicensed persons for the purposes of Kansas law. The Kansas Dental Board has no means of reviewing or regulating these individuals. These unlicensed persons should not be permitted to perform dental surgery procedures in Kansas.

Thank you for your consideration of our opposition to SB 603.

5200 Huntoon
Topeka, Kansas 66604
913-272-7360

*Senate P. H. #16
Attachment #2
3-2-92*

State of Kansas

235 S. TOPEKA BLVD.
TOPEKA, KS 66603



913-296-7413
FAX: 913-296-0852

Board of Healing Arts

M E M O R A N D U M

TO: Senate Committee on Public Health and Welfare
FROM: Lawrence T. Buening, Jr., Executive Director *LTB*
DATE: March 2, 1992
RE: TESTIMONY ON SENATE BILL 691

Mister Chairman and members of the Committee, thank you for the opportunity to appear before you and present testimony on Senate Bill 691. I also wish to express the appreciation of the State Board of Healing Arts for the willingness of this Committee to have this bill introduced at the request of the Board. While this bill makes some technical amendments to the Physical Therapy Act, you should also be aware that several major policy changes in the regulation of physical therapists and physical therapist assistants are included within this Act. Therefore, with the Committee's permission, I would like to go through the bill in detail and enumerate the proposed amendments which, I believe, make substantial changes to existing law.

Page one, line 40. At its meetings in December 1991 and February 1992, the Board specifically directed that any amendment to K.S.A. 65-2901 specify that a licensed chiropractor be included among those individuals who may refer patients to physical

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RON ZOELLER, D.C., TOPEKA

*Senate P. H. W.
Attachment #3
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therapists and approve the initiation of physical therapy treatment. While this appears to be somewhat of a controversial position, it was the strong feeling of the Board that patients of chiropractic licensees could, in certain instances, benefit from physical therapy and such might be able to be provided at a lower cost than office visits and attendant modalities administered by chiropractors. Further, it was felt this would provide physical therapists with another source of referrals.

Page two, lines 18-43 and page three, lines 1-10. It is proposed that K.S.A. 65-2906 be substantially amended. The present language specifies who may make application for an examination but has no language which clearly delineates that passage of the examination is a prerequisite to registration or certification. The new language contained in subsection (b) of 65-2906 combines the application process for both physical therapists and physical therapist assistants. It should be noted that the proposed amendments would make a major policy change in that physical therapist assistants would be required to have completed a formal educational program. At present, PTA's may be certified by either completion of an approved program or by obtaining equivalent qualifications based on training and experience. Over the last several years, there have been previous bills which would have deleted training and experience as qualifications for certification as a PTA in lieu of formal education. These past amendments have, for whatever reason, been unsuccessful. However, after having

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attended meetings of the Physical Therapy Examining Committee over the last several years and seeing the difficulties the Committee has faced in ascertaining whether training and experience was adequate, I believe that a more objective standard such as satisfactory completion of an approved educational program is appropriate at this time. Furthermore, requiring a formal educational program for certification as a physical therapist assistant would bring the state of Kansas in conformity with the vast majority of states which regulate physical therapist assistants.

Page three, lines 11-16. After discussing the proposed language with representatives of KPTA, a proposed balloon has been prepared which is attached hereto. The purpose of this sentence is to enable the Board to register or certify individuals from unapproved schools. Over the years, there has been a proliferation of physical therapy schools outside of the United States. While the current language of subsection (d) of K.S.A. 65-2906 specifies the manner in which unapproved schools may seek Board approval, the practicality of this situation is that schools do not apply for registration or certification. Rather, individuals from these unapproved schools do. The Physical Therapy Examining Committee and the Board have had much difficulty in obtaining information to determine whether the education received at the unapproved schools is equivalent to that provided by approved schools. The Board is cognizant that there is a shortage of physical therapists and

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physical therapist assistants in certain portions of the state of Kansas and that certain students from unapproved schools may be very competent practitioners. Therefore, this proposed amendment is made to enable individuals from unapproved schools to be registered or certified similar to the alternative provision provided in the Healing Arts Act (K.S.A. 65-2873[c]) which enables an individual to be licensed in the healing arts if they have completed additional post-graduate training not required of those individuals graduating from an accredited healing arts school.

Page three, lines 17-31. As part of the balloon, amendments are also suggested to this provision. While the Board has had a rule and regulation (K.A.R. 100-36-1) authorizing the issuance of temporary permits since 1966, there has never been any statutory provision for such. The language of the provision for the temporary permit, with the amendments as proposed in the balloon, specifically authorizes the issuance of a temporary permit until the applicant has the opportunity to take the next examination and receive the results therefrom. This would enable the recent graduate to immediately start to practice and, hopefully, would attract more therapists and assistants to the state of Kansas. If the individual was unable to take the next examination or failed the examination, then specific authority is given to the Board to approve a second temporary permit based upon the circumstances.

Page four, lines 6 and 7. These changes are primarily technical in nature since there no longer is an examination in physical therapy which is given by the American Registry of Physical Therapists.

Page four, lines 35-43 and page five, lines 1-14. Since 1966, the Board has had a regulation (K.A.R. 100-38-1) which sets fees for various activities including initial registration or certification, renewal, reinstatement, temporary permit, etc. Various statutes within the Physical Therapy Act refer to fees being prescribed by the Board but no statutory maximums have been established. All other professions regulated by the Board do have a specific statute which state the statutory maximums which may not be exceeded. These amendments are intended solely to provide statutory maximums for the various fees charged by the Board as is the case in the other professions regulated by the Board. The statutory fee maximums specified within this section are the same as that adopted by the 1989 Legislature for physician's assistants. See, K.S.A. 1991 Supp. 65-2896(e).

Page six, line 25. This amendment would change from an unclassified misdemeanor to a Class B misdemeanor the representation of oneself as a physical therapist without being registered by the Board. Presently, under the statutes regulating physicians assistants, respiratory therapists, occupational therapists and occupational therapy assistants, it is a Class C misdemeanor to represent oneself as such a professional without

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being registered by the Board. House Bill 2127 which is in this Committee and, hopefully, will be acted upon later in the session provides that practicing the healing arts without a license would be a Class B misdemeanor. It would appear to be a policy decision of this Committee to determine what level of misdemeanor should attach to representation as a physical therapist without registration by the Board.

Page six, lines 27-40. Current law provides that individuals who meet the requirements of the statutes may be referred to as physical therapist assistants. However, it is presently not unlawful for an individual who is not certified to so represent oneself. Therefore, the provisions made in this section would make it a Class B misdemeanor to hold oneself out as a physical therapist assistant without being so certified. As in the case of physical therapists, it would be a policy decision of this Committee as to what would be an appropriate level of crime to represent oneself as a physical therapist assistant without being certified.

Page seven, line 13. K.S.A. 65-2907 currently provides as follows:

"An applicant may be registered as a physical therapist or certified as a physical therapist assistant without a certificate of proficiency in the basic sciences from the state board of healing arts if the applicant fulfills the provisions of this act."

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This statute was last amended in 1983. While this statute may have been necessary when the Board actually conducted a basic science examination, it no longer appears to be necessary or relevant to the Physical Therapy Act and should be repealed.

My apologies for the length of this testimony. However, I felt it important that this Committee be aware of the substantive changes which Senate Bill 691 makes.

Thank you very much for your attention and the time which you have afforded to me. I would be happy to respond to any questions you might have.

1 apist assistant and who:

2 (1) Is at least of legal age;

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

5 (3) has successfully completed a program in a school for
6 physical therapist assistants approved by the state board of
7 healing arts, or is determined by the state board of healing arts
8 to possess equivalent qualifications based on training and ex-
9 perience, may make application for examination on forms fur-
10 nished by the board.

11 The board may authorize an applicant who does not meet the
12 requirements of paragraph (2) of subsection (b) to take the exami-
13 nation to be registered or certified if the applicant has successfully
14 completed a program of clinical study under the direct on-site su-
15 per vision of a person registered as a physical therapist as approved
16 by the board.

17 (d) The state board of healing arts may issue a temporary reg-
18 istration to an applicant for registration as a physical therapist or
19 a temporary certificate to an applicant as a physical therapist as-
20 sistant who applies for a temporary registration or certificate on a
21 form provided by the board, who meets the requirements for reg-
22 istration or for a certificate or who meets all the requirements for
23 such temporary registration or certificate established by rules and
24 regulations of the board and who pays to the board the temporary
25 registration or certificate fee as required under K.S.A. 65-2911 and
26 amendments thereto. The temporary registration or certificate shall
27 expire ~~one year from the date of issue or on the date that the board~~
28 ~~approves the application for registration or certificate, whichever~~
29 ~~occurs first.~~ No more than one temporary registration or certificate
30 shall be permitted to any one person without the majority approval
31 of the members of the board.

32 (d) (e) The board shall adopt rules and regulations establishing
33 the criteria which a school shall satisfy in order to be approved by
34 the board for purposes of ~~subsections (b) and (c)~~ subsection (b).
35 The board may send a questionnaire developed by the board to any
36 school for which the board does not have sufficient information to
37 determine whether the school meets the requirements of the board
38 for approval and rules and regulations adopted under this section.
39 The questionnaire providing the necessary information shall be com-
40 pleted and returned to the board in order for the school to be
41 considered for approval. The board may contract with investigative
42 agencies, commissions or consultants to assist the board in obtaining
43 information about schools. In entering such contracts the authority

:(1) provides proof satisfactory to the
board of completion of combined educational
studies equivalent in level and purpose to
an educational program approved by the
board; and (2)

on the date of the first regular meeting of
the board subsequent to the date the results
become available from the first examination
administered following issuance of the temporary
registration or certificate.

Kansas



Physical

Therapy

KPTA

Association

Testimony on SB 691
March 2, 1992

Candy Bahner, PT
Kansas Physical Therapy Association Lobbyist
Director Physical Therapist Assistant Program
Washburn University
Topeka, Kansas 66621
913-231-1010 ext. 1406

Mr. Chairman and members of the Senate Public Health and Welfare Committee:

My name is Candy Bahner. I am a Physical Therapist, a lobbyist for the Kansas Physical Therapy Association, and Director of the Physical Therapist Assistant Program at Washburn University.

Upon reviewing SB 691, Kansas Physical Therapy Association members felt the proposed language was not specific enough to prevent further problems. Carolyn Bloom and myself then visited with Mr. Buening to voice our concerns. **Compromise language was drawn up in the form of a balloon and is attached for your viewing.**

One of our concerns **which the proposed balloon does not address, is the addition of licensed chiropractors as a referral source.** We are unsure of why they were inserted in a bill requested to address problems in the current practice act of Physical Therapists and Physical Therapist Assistants in Kansas.

We also have questions as to why chiropractors would want to refer to Physical Therapists, and what they hope to accomplish by being able to refer to us.

*Senate P. H&W
Attachment #4
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EXCEPT for the addition of "a licensed chiropractor" in Section 1, page 1, line 40 and in Section 5, page 6, lines 8 & 9, we support SB 691 with the proposed balloon language.

I appreciate the opportunity to testify regarding SB 691 and would be happy to respond to any questions you might have.

1 apist assistant and who:

2 (1) Is at least of legal age;

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

5 (3) has successfully completed a program in a school for
6 physical therapist assistants approved by the state board of
7 healing arts; or is determined by the state board of healing arts
8 to possess equivalent qualifications based on training and ex-
9 perience; may make application for examination on forms fur-
10 nished by the board.

11 The board may authorize an applicant who does not meet the
12 requirements of paragraph (2) of subsection (b) to take the exami-
13 nation to be registered or certified if the applicant ~~has successfully~~
14 ~~completed a program of clinical study under the direct on-site su-~~
15 ~~pervision of a person registered as a physical therapist as approved~~
16 ~~by the board.~~

17 (d) The state board of healing arts may issue a temporary reg-
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423

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board of completion of combined educational
studies equivalent in level and purpose to
an educational program approved by the
board; and (2)

on the date of the first regular meeting of
the board subsequent to the date the results
become available from the first examination
administered following issuance of the temporary
registration or certificate.



Kansas Chiropractic

ASSOCIATION

TESTIMONY

SENATE PUBLIC HEALTH & WELFARE COMMITTEE

JOE FURJANIC, EXECUTIVE DIRECTOR OF KANSAS CHIROPRACTIC ASSOC.

MARCH 2, 1992

Mr. Chairman and members of the committee, my name is Joe Furjanic. I am the Executive Director of the Kansas Chiropractic Association.

KCA supports SB 691 in that at page 1 line 40 permits licensed chiropractors to refer to physical therapists. This is a welcome change in the law. With the changes in SB 691 licensed chiropractors can now join MD's, DO's, podiatrists and dentists as a referral base for physical therapists. It would seem that patients, physical therapists and doctors of chiropractic will benefit from such a change.

I will attempt to answer questions from the committee.

*Senate P. H & W
Attachment #5
3-2-92*