

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

4:50 ~~xxx~~ p.m. on March 3, 1992 in room 521-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Steve Schwarm, Board of Healing Arts
Jerry Palmer, Kansas Trial Lawyers Association
Chip Wheelen, Kansas Medical Society

Chairman Ehrlich called the meeting to order at 4:50 p.m. and announced continuation of the hearing on **SB 694**.

Steve A. Schwarm, Board of Healing Arts, stated that the third and last section of the bill would address two main areas. First, it would make the Board records privileged and confidential. Currently Board records are only confidential by statute. The final proposed language change would allow the Board to share information with other state and federal licensing, regulatory and enforcement agencies. **SB 694** would permit the Board to better perform its investigative duties in a more complete and thorough manner, provide protection for the Board records on a level of privileged versus only confidential and authorize the discretionary release of information to meet the needs of the Board and other state and federal agencies.

Chip Wheelen, Kansas Medical Society, submitted written testimony on **SB 694** and stated KMS endorses the Board's efforts to improve its ability to license and regulate those persons who are credentialed by the Board. KMS is particularly concerned about the possibility of ruining an active peer review process underway now and are supportive of the amendments that would restore original legislative intent relating to preserving active peer review which is important for purposes of evaluating quality of care. (Attachment 1)

Written testimony in support of **SB 694** was received from Harold E. Riehm, Kansas Association of Osteopathic Medicine. (Attachment 2)

Jerry Palmer, Kansas Trial Lawyers Association, stated his opposition to **SB 694** relating to the issue of confidentiality and privilege. Mr. Palmer submitted and reviewed the record of a case involving Wilbur Hilst, M.D. KTLA believes the legislature should be very cautious in enacting a law which would preclude the ability to subpoena records, even under the most compelling situation. A letter from Richard H. Mason, KTLA, was also submitted to the Committee. (Attachments 3 and 4)

Final Action on SB 691:

The Chairman stated that each member of the Committee received a balloon copy of the **SB 691** showing proposed amendments which included **SB 64**. (Attachment 5) Senator Burke made a motion to adopt the amendments in **SB 691**, seconded by Senator Hayden. No discussion followed. The motion carried. Senator Langworthy made a motion to strike "a licensed chiropractor," on page 1, line 40 of the bill. No second on the motion. The Chairman asked for wishes of the Committee on **SB 691**. Senator Burke made a motion to recommend **SB 691** as amended favorably for passage, seconded by Senator Hayden. No discussion followed. The motion carried.

The meeting was adjourned at 5:20 p.m. The next meeting of the Committee is scheduled for March 4, 1992, 10:00 a.m., Room 526-S.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 9-3-92

PM

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Chip Wheelen, Topeka

Ks Medical Soc.

Candy Bahnew PT Belvue

KPTA

FRANCES Kastner Topeka

KPTA

Ann Smith Topeka

KBA



KANSAS MEDICAL SOCIETY

623 W. 10th Ave. • Topeka, Kansas 66612 • (913) 235-2383
WATS 800-332-0156 FAX 913-235-5114

March 3, 1992

To: Senate Public Health and Welfare Committee

From: Kansas Medical Society

A handwritten signature in cursive script, appearing to read 'Chris Atwell', written over the 'From:' line.

Subject: Senate Bill 694; Healing Arts Regulation

Senate Bill 694 was requested by the State Board of Healing Arts to improve its effectiveness in licensing and regulating the professions that are credentialed by the Board. The Kansas Medical Society endorses the provisions of SB 694.

We are particularly supportive of the amendments in subsection (d) of section 1 (p.2, lines 38-42) and subsection (a) of section 3 (p.3, lines 36-39). These changes are needed in order to restore original legislative intent and to preserve active peer review which is so important for purposes of evaluating quality of care.

Thank you for considering our position.

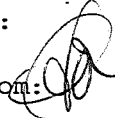
*Senate P. HEW
Attachment #1
3-3-92 PM*

Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

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

March 3, 1992

To: Chairman Ehrlich, Members of the Senate Public Health Committee
From:  Harold E. Riehm, Executive Director, Kansas Assn. of Osteopathic Medicine
Subject: Support of S.B. 694

I am pleased to submit this written testimony of KAOM in support of S.B. 694.

We think it important that all materials and information collected and used by the Board of Healing Arts in the course of investigating matters involving licensees and registrants of the Board, be both confidential and privileged, including that dealing with criminal history record information sought in S.B. 694. If the Board is to perform in a complete and thorough way in its capacity of protecting the public, we think it important that sources of information know that the information they provide is BOTH CONFIDENTIAL AND PRIVILEGED.

KAOM also supports the change in S.B. 694 that would permit the Peer Review Committees of the Board to exclude a third member, when conditions so suggest. In the case of the Osteopathic Review Committee, there are times when a D.O. specialist may be under review and it is difficult to obtain another D.O. of that speciality due to the very limited number of specialists in the osteopathic profession in Kansas. There are circumstances when it is not important that a third person to be present, and the changes requested in S.B. 694 would permit that Review Committee to proceed without that person being present. Yet, in conditions where thought important, that person could be brought in.

As always, the physicians I represent think it important to seek those changes that enhance the role of the Board of Healing Arts in performing its role of protecting the public. We see the changes in S.B. 694 as an enhancement of existing procedures toward that end.

Senate P. H. W.
Attachment #2
3-3-92 PM

Wilbur D. Hilst, M.D.

Dr. Hilst was placed on probation by the Colorado Board of Medical Examiners for excessive use of alcohol or alcoholic beverages.

JUN 15 1979

(McClure-Bray) Dr. Hilst be requested to appear before the Board at the next meeting. Carried.

Wilbur D. Hilst, M.D.

Dr. Hilst has been put on probation by the Colorado Board of Medical Examiners because of a problem with alcohol. Dr. Hilst has a Kansas license and is opening an office in Topeka. Complaints have been received concerning his being drunk while applying for membership in the Shawnee County Medical Society.

AUG 18 1979

(McNett-McKelvey) A stipulation be presented to Dr. Hilst that charges will be filed for a disciplinary hearing unless he agree to the following: (1) no drinking, (2) attend Alcoholic Anonymous, full attendance, (3) comply with the Impaired Physicians Program, and (4) reappear in 90 days for a meeting and hearing before the Board. Carried.

Wilbur D. Hilst, M.D.

Dr. Hilst has agreed with the stipulation presented by the Board. However, reports have been received that he is not keeping the requirements of the stipulation.

OCT 06 1979

(McKelvey-Doctor) The investigator should check into these reports and report back at the next meeting. Contact should be made with the Impaired Physician's Committee of the Kansas Medical Society, AA, and the Police Record about a DWI. Carried.

Wilbur Hilst, M.D.

Dr. Hilst was interviewed regarding his compliance with the stipulation between him and the Board. He reported on his attendance at A.A. and working with the Impaired Physician's Committee.

DEC 14 1980

Dr. Hilst should return to appear before the Board again in 90 days.

Wilbur Hilst, M.D.

Dr. Hilst appeared before the Board under the stipulation agreed to between him and the Board. The Board is well satisfied with the progress of Dr. Hilst. Dr. Hilst will be requested to come back in six months.

APR 19 1980

Wilbur Hilst, M.D.

No work has been done on this case, but Dr. Hilst will be requested to appear again at the next meeting. A report will be given at that time.

JUL 19 1980

Wilbur Hilst, M.D.

Dr. Hilst was requested to appear before the Board in a follow up on his problem with alcohol. Dr. Hilst stated that he had some problems with alcohol during the past six months but now is back with A.A.

OCT 4 1980

(Kelly-Rodriguez) Dr. Hilst be requested to return in six months. Carried.

DEC 10 1980. Wilbur Hilst, M.D.: (Bichlmeier-Greene) Approve stipulation. Carried.

*Senate P. Hill
Attachment #3
3-3-92 PM*

Wilbur Hilst, M.D.

DEC 5 1981

Dr. Hilst was accompanied by William R. Stewart, attorney. Dr. Hilst is practicing under a stipulation with the Board dated December 5, 1980. A letter has been received from the attorney for Dr. Hilst stating he is going to ask for the removal of these limitations.

(Gilles-Farmer) Observe Dr. Hilst for another six months and then consider returning office and other surgical procedures. A letter will be written stating that he has done a good job in the past.

A roll call vote was taken with Maxwell, Farmer, Gilles, Marshall, Good voting yes and Bruno, Sauder, McKelvey, Kelly, Cummings and Jumper voting no. Motion failed.

(Kelly-Cummings) Restore his privileges to do endoscopy and minor surgical procedures requiring only or no more than local anesthesia, that all other stipulations remain in effect, and he return in six months. Carried with Maxwell voting no.

Wilbur Hilst, M.D.:

JUN 19 1982 Dr. Hilst was accompanied by his attorney, William Stewart.

Dr. Hilst is practicing under a stipulation with the Board dated December 5, 1980, with the following limitations:

- a) He shall not perform or be involved in any surgery of any sort, to include, but not be limited to, any type of office surgery and further that he shall not be involved in any manner in any invasive procedures, including but not limited to endoscopy,
- b) that he should submit to an immediate blood test requested by the Board at any time,
- c) he should take antabuse medication as prescribed by A.P.R. Menninger Foundation 7 days per week. Board shall approve any change in medication,
- d) Board may review his records and patient files at any time,
- e) These limitations shall be in force for 5 years,
- f) Should any conditions or limitations not be fulfilled, Board has right to revoke his license.

On December 5, 1981, the Board voted to restore his privileges to do endoscopy and minor surgical procedures requiring only or no more than local anesthesia, that all other stipulations remain in effect and he return in 6 months.

(Kelly-Jumper) Recommend that all restrictions be removed from Dr. Hilst's medical and surgical privileges with the proviso that any major surgery he performs during the next six months have a qualified surgical physician or assistant.

(Cummings-Kelly) Dr. Hilst return in 6 months to visit with the Secretary of the Board who will then report to the full Board on his status.

DEC 10 1982 Wilbur Hilst, M.D., was interviewed by Dr. Gilles and he is doing well. He is regularly attending A.A. and taking Antabuse. Reports are being sent to the Board on time and on a regular basis.

19.

DEC 6 1984 Wilbur Hilst, M.D. has missed two days of his antabuse and after writing him a letter he responded that he had missed these two days only because of heavy office days. He was having no problems with his antabuse and was continuing with his A.A. Meetings.

December 3, 1984

Wilbur Hilst, M.D. - Patient is in the fourth year of his five year stipulation for alcoholism and is doing quite well. He is taking antabuse tests five days a week, and has been sober for four years. He is active in general practice and in general surgical practice both in Rossville and Topeka. He had a very good interview today at the Board Office with Elizabeth Carlson, Don Strole and I. We all felt that he was doing quite well and he is to return in one years time at the end of his stipulation. He is petitioning the Board to reduce his antabuse blood tests to three days a week and this will be brought to the Board for its consideration on December 7, 1984.

DEC 7 1984 Wilbur Hilst, M.D. - Dr. Hilst appeared before the Secretary of the Board, the Executive Secretary and attorney for an informal interview. He goes to Menningers daily for antabuse. His reports come in regularly concerning this. He is doing well and his letters of recommendation are good. He has been on a stipulation for 4 years. He has requested that the antabuse be reduced to 3 times a week. Dr. Uhlig reported he is doing well in maintaining his sobriety.

(Gilles-Good) Grant his request to reduce the dosage of antabuse to 3 times per week. Carried.

Wilbur Hilst, M.D.

APR 13 1985 The medical review committee recommended an informal admonishment be given to Dr. Hilst because he did not carry the required malpractice insurance for 8 years.

(Knackstedt-Farmer) A letter to be sent to Commissioner Bell about lack of knowledge of insurance of Dr. Hilst. The Secretary will write the letter. Carried.

(Knackstedt-Uhlig) A letter of informal admonishment be written to Dr. Hilst. Carried.

2-7-86: Dr. Wilbur Hilst, M.D. - appeared before a informal interview committee to see if his stipulation could be lifted. Dr. Scanlon and Dr. Syler also attended the meeting as consultants. It was agreed that his stipulation has expired.

Wilbur Hilst, M.D.

APR 8 1986 Dr. Hilst appeared for an informal interview February 7, 1986, with Dr. Uhlig, Mr. Buening, Mrs. Abbott, Dr. Scanlon and Dr. Syler. The consultants felt that he had done well regarding his alcohol problem. The Order of Limitation issued by the Board on December 5, 1980, expired by its terms on December 5, 1985, therefore, Dr. Hilst's license no longer has any limitations. However, the Board has found out that Dr. Hilst has had his privileges revoked at Stormont-Vail, that two complaints have been filed against him, and that Blue Cross and Blue Shield have revoked his CAPS privileges. He is scheduled for a review committee in two weeks. The Board will be notified as to the results of this committee.

(f) WILBUR HILST, M.D.: Accompanied by Ray Stewart, Attorney.

EXECUTIVE SESSION: (4:00-4:16)

APR 16 1986 (Wright-Kerbs) I move that we go into executive session under the provisions of K.S.A. 65-2839a and 75-4319 to discuss matters under investigation which are pursuant to K.S.A. 65-2801 et seq. and are required to be confidential. The Board will be in executive session for 15 minutes. Carried.

EXECUTIVE SESSION: (4:16-4:20)

(Bigler-Maxwell) The Board will be in executive session for 5 minutes for the same purposes as previously stated. Carried.

(Hiebert-Bigler) Based on information provided relating to Dr. Hilst's lab and x-ray examinations, a stipulation be offered to Dr. Hilst that he be restricted from performing laboratory tests or taking x-rays in his office and he take upcoming SPEX Examination to be applied for before May 20th, and results of which will be used to evaluate his clinical ability. If Dr. Hilst agrees to these restrictions within two weeks the formal adjudicative proceeding will be stayed until after results of SPEX. Carried.

(f) WILBUR HILST, M.D.: Accompanied by Ray Stewart, Attorney.

EXECUTIVE SESSION: (4:00-4:16)

APR 16 1968
(Wright-Kerbs) I move that we go into executive session under the provisions of K.S.A. 65-2839a and 75-4319 to discuss matters under investigation which are pursuant to K.S.A. 65-2801 et seq. and are required to be confidential. The Board will be in executive session for 15 minutes. Carried.

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KANSAS TRIAL LAWYERS ASSOCIATION

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(913) 232-7756 FAX (913) 232-7730

March 3, 1992

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Sen. Roy Ehrlich, Chair
 Senate Public Health and Welfare Committee
 300 SW 10th
 Topeka, KS 66612

Dear Sen. Ehrlich:

The Kansas Trial Lawyers Association is opposed to SB 694 as we feel it is not in the best interest of health care patients in our state.

Certainly there is some limited justification for the confidentiality of the records acquired by the Board of Healing Arts. However, once an individual matter has been ruled upon by the Board, we strongly believe Kansans would benefit by allowing such information to become public. Without citing specific examples, we are aware of numerous instances where the Board has found health care providers to have violated the standard of care, sometimes routinely over a long period of time. If this knowledge is not ultimately disclosed, future patients have no way of protecting themselves by making an informed decision when they choose a health care provider.

KTLA also believes the legislature should be very cautious in enacting a law which would preclude the ability to subpoena records, even under the most compelling situation.

Finally, we have attached the relevant portion of the Supreme Court Rule relating to confidentiality of proceedings, reports and disciplinary investigations and hearings for attorneys. We do so for two reasons. First, it shows the consistency of the way attorney complaints are disclosed and that of the way we believe it should also be for health care providers. Second, we would suggest your Committee consider using it as a model for Board of Healing Arts complaints.

Sincerely,

Richard H. Mason
Executive Director

RHM/ll
encl.

cc: Members of the Senate Public Health and Welfare Committee

RICHARD H. MASON
EXECUTIVE DIRECTOR

*Senate P. H & W
 Attachment # 4
 3-3-92 PM*

RULE 222. CONFIDENTIALITY

(a) All proceedings, reports, and records of disciplinary investigations and hearings, except as hereinafter provided, shall be private and shall not be divulged in whole or in part to the public except by order of the Supreme Court or subpoena or order of any other court of competent jurisdiction.

(b) Any person violating subsection (a) may be subject to punishment for contempt of the Supreme Court.

(c) The rule of confidentiality shall not apply to the complainant, respondent or to any information which the Board or the Disciplinary Administrator considers to be relevant to any current or future criminal prosecution against the attorney.

(d) After a determination of probable cause as provided in Rule 210(c), all subsequent proceedings, and the record pertinent thereto, shall be public and no longer subject to the confidentiality hereinbefore set forth.

(e) The Disciplinary Administrator and the Board are authorized, in his/her, or its discretion, to disclose to the Supreme Court Nominating Commission, the District Judicial Nominating Commissions, the Commission on Judicial Qualifications, or the Governor all or any part of the file involving any judge or prospective nominee for judicial appointment; and to make public all or any part of its files involving any candidate for election to or retention in public office; and to provide all or any part of its files to any other state disciplinary authority or any law enforcement agency.

(f) Upon the completion of any investigation which results in dismissal or informal admonition, the Disciplinary Administrator shall notify the complainant of the action taken and is hereby authorized to reveal to such complainant such information as deemed necessary to adequately explain the basis for the decision and action of the review committee.

SENATE BILL No. 691

By Committee on Public Health and Welfare

2-18

8 AN ACT concerning physical therapists and physical therapist assis-
9 tants; amending K.S.A. 65-2909 and 65-2913 and K.S.A. 1991
10 Supp. 65-2901, 65-2906, 65-2911 and 65-2912 and repealing the
11 existing sections; also repealing K.S.A. 65-2907.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 1991 Supp. 65-2901 is hereby amended to read
15 as follows: 65-2901. (a) As used in this act, the term "physical ther-
16 apy" means a health specialty concerned with the evaluation, treat-
17 ment or instruction of human beings to assess, prevent and alleviate
18 physical disability and pain. This includes the administration and
19 evaluation of tests and measurements of bodily functions and struc-
20 tures in aid of treatment; the planning, administration, evaluation
21 and modifications of treatment and instruction, including the use of
22 physical measures, activities and devices for prevention and thera-
23 peutic purposes; and the provision of consultative, educational and
24 advisory services for the purpose of reducing the incidence and
25 severity of physical disability and pain. The use of roentgen rays
26 and radium for diagnostic and therapeutic purposes, the use of elec-
27 tricity for surgical purposes, including cauterization, and the practice
28 of medicine and surgery are not authorized or included under the
29 term "physical therapy" as used in this act.

30 (b) "Physical therapist" means a person who practices physical
31 therapy as defined in this act and delegates selective forms of
32 treatment to supportive personnel under the person's supervision of
33 such person. Any person who successfully meets the requirements
34 of K.S.A. 65-2906 and amendments thereto shall be known and
35 designated as a physical therapist and may designate or describe
36 oneself as a physical therapist, physiotherapist, registered physical
37 therapist, P.T., Ph. T. or R.P.T. Physical therapists may evaluate
38 patients without physician referral but may initiate treatment only
39 after consultation with and approval by a physician licensed to prac-
40 tice medicine and surgery, a licensed chiropractor, a licensed pod-
iatrist or a licensed dentist in appropriately related cases.

(c) "Physical therapist assistant" means a person who works under
43 the direction of a physical therapist, and who assists in the application

Physical therapy is performed by a registered physical therapist or a certified physical therapist assistant as defined in K.S.A. 65-2906 and amendments thereto.

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 an order to continue such treatment is obtained from

Senate P. Hew
Attachment #5
3-3-92 PM

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

Sec. 2. K.S.A. 1991 Supp. 65-2906 is hereby amended to read as follows: 65-2906. (a) It shall be the duty of the state board of healing arts, with the advice and assistance of the state examining committee, to pass upon the qualifications of all applicants for examination and registration or certification, provide for and conduct all examinations, determine the applicants who successfully pass the examination, duly register or certify such persons and adopt rules and regulations for professional conduct of the registered or certified persons.

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

(1) Is of legal age; and

(2) has graduated from a school of physical therapy approved by the state board of healing arts, may make application on a form furnished by the board for examination for registration as a physical therapist.

An applicant applying for registration as a physical therapist or for a certificate as a physical therapist assistant shall file a written application on forms provided by the state board of healing arts, showing to the satisfaction of the board that the applicant meets the following requirements:

(1) The applicant is of legal age;

(2) the applicant has successfully completed the academic requirements of an educational program in physical therapy approved by the board;

(3) the applicant has passed an examination required by the board to test the applicant's knowledge of the basic and clinical sciences relating to physical therapy, and physical therapy theory and practice, including the applicant's professional skills and judgment in the utilization of physical therapy techniques and methods, and any other subjects the board may deem useful to determine the applicant's fitness to practice; and

(4) the applicant has paid to the board all applicable fees established under K.S.A. 65-2911 and amendments thereto.

(c) A person who desires to be certified as a physical ther-

apist assistant and who:

- (1) Is at least of legal age;
- (2) has successfully obtained a high school education or its equivalent, as determined by the board; and
- (3) has successfully completed a program in a school for physical therapist assistants approved by the state board of healing arts, or is determined by the state board of healing arts to possess equivalent qualifications based on training and experience, may make application for examination on forms furnished by the board.

The board may authorize an applicant who does not meet the requirements of paragraph (2) of subsection (b) to take the examination to be registered or certified if the applicant has successfully completed a program of clinical study under the direct on-site supervision of a person registered as a physical therapist as approved by the board.

: (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)

(d) The state board of healing arts may issue a temporary registration to an applicant for registration as a physical therapist or a temporary certificate to an applicant as a physical therapist assistant who applies for a temporary registration or certificate on a form provided by the board, who meets the requirements for registration or for a certificate or who meets all the requirements for such temporary registration or certificate established by rules and regulations of the board and who pays to the board the temporary registration or certificate fee as required under K.S.A. 65-2911 and amendments thereto. The temporary registration or certificate shall expire one year from the date of issue or on the date that the board approves the application for registration or certificate, whichever occurs first. No more than one temporary registration or certificate shall be permitted to any one person without the majority approval of the members of the board.

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

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

1 to approve schools shall remain solely with the board.

2 Sec. 3. K.S.A. 65-2909 is hereby amended to read as follows:
3 65-2909. (a) The board may issue a certificate of registration in phys-
4 ical therapy without examination ~~therein~~ to an applicant who pres-
5 ents evidence satisfactory to the board of having passed ~~the~~
6 ~~examination in physical therapy of the American registry of~~
7 ~~physical therapists; an examination recognized by the board~~ or an
8 examination before a similar, lawfully authorized examining board in
9 physical therapy of another state, District of Columbia, territory or
10 foreign country, if the standards for registration in physical therapy
11 in ~~such the~~ other state, district, territory or foreign country are
12 determined by the board to be as high as those of this state. At the
13 time of making ~~such an~~ application, the applicant shall pay to the
14 board a fee as prescribed, no part of which shall be returned.

15 (b) The board may issue a certificate as a physical therapist as-
16 sistant without examination ~~therein~~ to an applicant who presents
17 evidence satisfactory to the board of having passed an examination
18 as a physical therapist assistant as approved by the ~~state board of~~
19 ~~healing arts~~ or an examination before a similar, lawfully authorized
20 examining board in physical therapy of another state, District of
21 Columbia, territory or foreign country, if the standards for certifi-
22 cation in physical therapy in ~~such the~~ other state, District of Co-
23 lumbia, territory or foreign country are determined by the board to
24 be as high as those of this state. At the time of making such ap-
25 plication, the applicant shall pay to the board a fee as prescribed,
26 no part of which shall be returned.

27 Sec. 4. K.S.A. 1991 Supp. 65-2911 is hereby amended to read
28 as follows: 65-2911. (a) The state board of healing arts may adopt
29 such rules and regulations as necessary to carry out the purposes of
30 this act. The executive director of the board shall keep a record of
31 all proceedings ~~under this act~~ and a roster of all persons registered
32 or certified under the act. The roster shall show the name, address,
33 date and number of the original certificate of registration or certifi-
34 cate, and the renewal thereof.

35 (b) *The following fees shall be established by rules and regula-*
36 *tions adopted by the board and collected by the board:*

37 (1) *For registration or a certificate, the sum of not more than*
38 *\$100;*

39 (2) *for a temporary registration or certificate, the sum of not*
more than \$30;

42 (3) *for renewal of a registration or certificate, the sum of not*
more than \$75;

43 (4) *for late renewal of a registration or certificate, the sum of*

not more than \$250;

(5) for reinstatement of a registration or certificate, the sum of not more than \$250;

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

(7) for a copy of a certificate of registration or a certificate, the sum of not more than \$25;

(8) for any examination given by the board, an amount equal to the cost to the board of the examination and its administration.

(c) If any examination required for registration or a certificate is not administered by the board, the board may require the fees for the examination be paid directly to the examination service by the person applying to take the examination.

(b) (d) The state board of healing arts shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof received in the state treasury. Twenty percent of such amount shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from such fund these funds shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person or persons designated by the president of the board.

Sec. 5. K.S.A. 1991 Supp. 65-2912 is hereby amended to read as follows: 65-2912. (a) The board may refuse to grant a certificate of registration to any physical therapist or a certificate to any physical therapist assistant, or may suspend or revoke the registration of any registered physical therapist or certificate of any certified physical therapist assistant for any of the following grounds:

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

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

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

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

(5) unprofessional conduct;

(6) the treatment or attempt to treat ailments or other health

5-6

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conditions of human beings other than by physical therapy and as authorized by this act;

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

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

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

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

Sec. 6. K.S.A. 65-2913 is hereby amended to read as follows:

65-2913. (a) Any person who, in any manner, represents oneself as a physical therapist, or who uses in connection with such person's name the words or letters physical therapist, physiotherapist, registered physical therapist, P.T., Ph. T. or R.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist, without a valid existing certificate of registration as a physical therapist issued to such person pursuant to under the provisions of this act, shall be guilty of a class [B] misdemeanor.

[C]

(b) Any person who successfully meets the requirements of subsection (c) of K.S.A. 65-2906 and amendments thereto shall be known as and designated a physical therapist assistant and may designate or describe oneself as a physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A., or P.T. Asst. Any person who, in any manner, represents oneself as a physical therapist assistant, or who uses in connection with such person's name the words or letters physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist assistant, without a valid existing certificate as a physical therapist assistant issued to such person pursuant to the provisions of this act, shall be guilty of a class [B] misdemeanor.

[C]

(c) No person other than a registered physical therapist or certified physical therapist assistant or person under their supervision can claim to perform physical therapy.

(d) Nothing in this act shall prohibit any person not holding oneself out as a physical therapist or physical therapist assistant from carrying out as an independent practitioner, without prescription or

[d]

1 supervision, the therapy or practice for which ~~such~~ *the* person is
2 qualified, and shall not prohibit ~~such~~ *the* person from using cor-
3 rective therapy. Nothing in this act shall prohibit any person who
4 assists the physical therapist or physical therapist assistant from being
5 designated as a physical therapy aide.

6 New Sec. 7. When it appears to the state board of healing arts
7 that any person is violating any of the provisions of K.S.A. 65-2901
8 to 65-2914, inclusive, and amendments thereto, the board may bring
9 an action in a court of competent jurisdiction for an injunction against
10 such violation without regard to whether proceedings have been or
11 may be instituted before the board or whether criminal proceedings
12 have been or may be instituted.

13 Sec. 8. K.S.A. 65-2907, 65-2909 and 65-2913 and K.S.A. 1991
14 Supp. 65-2901, 65-2906, 65-2911 and 65-2912 are hereby repealed.

15 Sec. 9. This act shall take effect and be in force from and after
16 its publication in the statute book.