

Approved: 3-24-95
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on March 9, 1995 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department
Bill Wolff, Legislative Research Department
Norman Furse, Revisor of Statutes
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Shelby Smith, Kansas Podiatric Medical Association
Donald A. Mahrle, D.P.M.
Phyllis A. Ragley, D.P.M., J.D.
Chip Wheelen, Kansas Medical Society
Harold Riehm, Kansas Association of Osteopathic Medicine
Lesa Bray, Bureau of Adult and Child Care, KDHE
John Peterson, Kansas Association of Speech Pathologists and Audiologists

Others attending: See attached list

Announcements

Minutes of February 20, 21, 22, 23 and 24 were distributed to the Committee for review.

The Chair announced that subcommittee on **SB 268** would meet Monday, March 13th, at 4:00 p.m. in Room 220-S -- Senators Praeger, Walker and Hardenburger.

Continued hearing on SB 55 - Scope of practice of podiatry

Shelby Smith, KPMA, submitted written testimony in support of **SB 55** with balloon amendments to the bill. (Attachment 1)

Mr. Smith noted that with the proposed amendments, the bill does change the scope of practice and a licensed podiatrist could amputate toes.

In answer to a member's question, staff noted that there is no definition of surgeon and physician per say, but reference in the Healing Arts Act defines surgeons and physicians as only those persons licensed to practice medicine and surgery and are basically medical doctors or doctors of osteopathy.

Donald A. Mahrle, D.P.M., addressed the Committee in support of **SB 55** as noted in his written testimony. (Attachment 2)

Phyllis Ragley, D.P.M., J.D., also submitted written testimony in support of **SB 55** in which specific statistics were quoted as well as a letter from Gary D. Boston, M.D., P.A. (Attachment 3)

In answer to a member's question regarding the definition of a functional foot, Dr. Ragley noted that the functional foot is the anatomic foot, and any muscle, tendon and ligament or other soft tissue structure that is directly attached to the anatomical foot that impacts on or effects the foot or foot function.

Chip Wheelen, KMS, appeared before the Committee in opposition to **SB 55** as noted in his written testimony as well as a letter from Gregory K. Unruh, M.D. who stated his opposition to removal of language in the bill that would allow podiatrists to administer conduction anesthesia or general anesthesia. (Attachment 4) Concern was also expressed regarding the recent Attorney General Opinion 94-148 that states the term physician includes podiatrists as defined by the Healing Arts Act which suggests that the podiatry act itself

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S
Statehouse, at 10:00 a.m. on March 9, 1995.

addresses the definition of podiatric physician. Mr. Wheelen pointed out the definition section of the podiatry act refers to one who practices podiatry is a podiatrist.

Harold Riehm, KAOM, addressed the Committee in opposition to **SB 55**. (Attachment 5) Mr. Riehm questioned the statement that suggested podiatric training and education was comparable to osteopathic training and education. He also felt the issue of broadening the scope of practice addressed here would be better handled through a credentialing process.

The Chair called attention to an NCSL report provided by Senator Hardenburger entitled "Questions A Legislator Should Ask" which lists suggested questions legislators can ask when confronted with a request for professional or occupational regulations.

Discussion and action on SB 321 - Community health cooperation act

Written material was distributed from Joe Pucci, Plumbing and Pipefitting Industry of Wichita, regarding collective bargaining in the private sector. (Attachment 6)

The Chair called attention to the balloon of **SB 321** showing proposed amendments to the bill. (Attachment 7) Senator Jones made a motion the Committee adopt the balloon amendments of the bill, seconded by Senator Langworthy. After Committee discussion, the motion carried.

Senator Langworthy made a motion the Committee recommend **SB 321 as amended** favorably for passage, seconded by Senator Lee. The motion carried.

Hearing on SB 348 - Licensing and regulation of speech-language pathologists and audiologists

Lesa Bray, KDHE, addressed the Committee in support of **SB 348** which revises licensure statutes for speech-language pathologists and audiologists, a licensure program administered by KDHE Health Occupations Credentialing unit. The bill would delete unnecessary statutory language related to licensing practices prior to September 1, 1993. Ms. Bray called attention to balloon amendments to the bill. (Attachment 8) After discussion on the bill, staff was directed to draft language regarding provisional license to make it consistent with other language.

John Peterson, Kansas Association of Speech Pathologists and Audiologists, noted he is supportive of the bill and the changes which are technical in nature and designed to make it easier for individuals who are from other states coming into Kansas and having problems under the current law.

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for March 10, 1995.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 3-9-95

NAME	REPRESENTING
Larry Evening	Bd of Hearing Arts
Charles Riem	RDHE
Eva Gray	RDHE
GARY Robbins	Ks Opt Assn
John Henderson	Citizen
Paul Harris	Citizen
Mavis Waller	Citizen
Tom Alley	ATK
Don Ryan	Rural Health
W.W. Gross	SM Med Center
Genny Nicholas	Children's mercy
A Howell	✓ ✓
M. Day KONGERWAL	Kc. Hearing Aid Assn
Wesley Lerner	Ks Hearing Aid Assn
John Peterso	Kc Speech, Language + Hearing Assn
Paul Davis	Senator: Hensley

TESTIMONY - INTRODUCTIONS

Senate Bill No. 55
Clarification/Updating Podiatry Act
March 9, 1995

Madam Chair and Members, Senate Public Health & Welfare Committee

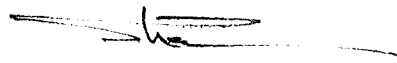
Thank you for introducing our bill and I want to express our appreciation for this hearing. Notwithstanding the expressed support within this committee for SB 268, Credentialing of Health Care Personnel, we are hopeful for positive action this year on SB 55. It is neither complex, nor in any way a threat to quality of services.

As you will recall, Dr. Adam Richardson, Hutchinson Clinic, testified before you on February 23rd regarding: the comprehensive nature of his two year podiatric surgical residency; and the real world disincentive of our horse and buggy podiatry act to recruiting and retaining the best talent for Kansas.

Our two conferees today, Dr. Donald Mahrle, Topeka, and Dr. Phyllis Ragley, Lawrence, will respectively cover education/training and the legal/professional facts justifying SB 55.

I believe if you hold most of your questions for our third conferee, Dr. Ragley, it will expedite a thorough coverage of the subject at hand. Thank you.

Any questions for me?



Shelby Smith, Lobbyist
Kansas Podiatric Medical Assoc.

P.S. We respectfully submit two amendments for SB 55. (Attached)

132 South Fountain
Wichita, Kansas 6721
316-684-137

820 S.E. Quincy, Suite 312

PUB

Senate Public Health & Welfare
Date: 3-9-95
Attachment No. 1

SENATE BILL No. 55

By Committee on Public Health and Welfare

1-18

9 AN ACT concerning the practice of podiatry; amending K.S.A. 65-2002
10 and repealing the existing section.

11

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

13 Section 1. K.S.A. 65-2002 is hereby amended to read as follows: 65-
14 2002. (a) It shall be unlawful for any person to profess to be a podiatrist,
15 to practice or assume the duties incidental to podiatry, to advertise or
16 hold oneself out to the public as a podiatrist, or to use any sign or adver-
17 tisement with the word or words podiatrist, foot specialist, foot correc-
18 tionist, foot expert, practapedist or chiropodist, or any other term or terms
19 indicating that such person is a podiatrist or that such person practices
20 or holds oneself out as practicing podiatry or foot correction in any man-
21 ner, without first obtaining from the board a license authorizing the prac-
22 tice of podiatry in this state, except as hereinafter provided.

23 (b) A licensed podiatrist means a physician and surgeon of the human
24 functional foot, who shall be authorized to prescribe such drugs or med- ~~Delete~~
25 icine, and to perform such surgery on the human foot or toes, as may be
26 necessary to the proper practice of podiatry, but no podiatrist shall am-
27 putate the human foot or toes or administer any anesthetic other than
28 local podiatric medicine and surgery. ~~ADD~~

29 (c) This act shall not prohibit the recommendation, advertising, fitting
30 or sale of corrective shoes, arch supports, or similar mechanical appli-
31 ances, or foot remedies by manufacturers, wholesalers or retail dealers.

32 Sec. 2. K.S.A. 65-2002 is hereby repealed.

33 Sec. 3. This act shall take effect and be in force from and after its
34 publication in the statute book.

* With these two amendments KSA 65-2002(b)
would read:

A licensed podiatrist means a physician and
surgeon of the human foot, who shall be authorized
to perform such surgery on the human foot or toes,
as may be necessary to the proper practice of podiatric
medicine and surgery, but no podiatrist shall amputate
the human foot, or administer any anesthetic other
than local.

but no podiatrist shall amputate the
human foot or administer any
anesthetic other than local.

1-2

DR. DONALD A. MAHRLE, D. P. M.

DIPLOMATE, AMERICAN BOARD
OF PODIATRIC SURGERY
FELLOW, A.C.F.S.

4019 S. W. 21ST STREET
TOPEKA, KANSAS 66604
TELEPHONE (913) 272-7600
FAX (913) 271-5457

March 9, 1995

Madam Chairman and Committee Members,

My name is Donald A. Mahrle, and I am a practicing podiatrist in Topeka, Kansas. I also serve as the Director of the second year residency training program at the Leavenworth V.A. Hospital, having been associated with that program since its inception in 1970 as a consultant. I also serve as a clinical associate professor of Podiatric medicine at the Iowa College of Podiatric Medicine. I am board certified in surgery of the foot and ankle.

"The basic science curriculum for podiatric medical students is essentially the same as the curriculum for students in the College of Osteopathic Medicine, and surgery. Classes are taught jointly and, where appropriate, separately to accommodate the special needs of podiatric medicine.

"During the last 24 months of the four year course of study, students receive clinical experience in four environments: ambulatory clinics, hospitals, long term care facilities and community practices. During this phase podiatric medical students interact with other members of the health care community, such as primary care physicians, specialists and students in other health care programs."1

During a one year hospital based training program, the resident will rotate through the various departments of medicine, anesthesia, surgery, orthopedics, radiology and podiatry to gain practical hands-on experience and knowledge of the care of the human foot and associated medical diseases. In the course of his hospital training he will be involved with the treatment of multiple medical problems including Diabetes and the various complications associated with that disease such as infection of the skin (ulceration) and foot bones, and various vascular complications. The resident will write the treatment plans and orders, and directly assist in any surgical procedures that might be required, including amputation of digits and/or various other foot bones. Federal hospitals are not bound by local state laws as to staff privileges.

The podiatric resident functions in the same manner as any other medical/surgical resident during his rotation on that particular hospital service. His responsibilities and duties are the same as the other first year residents, and include: admission orders; provisional diagnosis; ordering laboratory testing; submitting a treatment plan for appropriate medical/surgical treatment complete through the discharging of the patient; presenting the patient to the hospital teaching staff for daily and grand rounds for discussion of the appropriate diagnosis and various forms of therapy for the given disease.

The resident is under the direct supervision of the hospital staff and its teaching consultants who must counter-sign any orders to ensure that appropriate treatment is being given to the patient. Evaluation by the various department heads is given at the conclusion of any rotation and any deficiency noted will require additional make-up time at the conclusion of the program before certification of completion is awarded.

1 1994-1996 CATALOG, University of Osteopathic Medicine And Health Sciences.
Des Moines, IA.

Senate Public Health & Welfare
Date: 3-9-95
Attachment No. 2

March 9, 1995

A report of the Medical Board of California on the general medical and surgical components of Podiatric Residency Training in California, dated October, 1993, concluded: "In their general medical and surgical experiences, the residents are being exposed to appropriate clinical situations that should lead to the majority of graduates being able to recognize general medical conditions likely to affect their management of foot conditions. Podiatric medical education would not have to go too much further than where it is in some cases and with some individuals now, to be the equivalent of the basic education of a physician."

On July 1, 1994, a second year surgical program was started at the Leavenworth V.A.H. to provide additional surgical experience involving the more complex foot operations. We are using the Leavenworth V.A.H. staff, the Fort Leavenworth military hospital and its dependent clinics, and the Kansas City, Missouri, V.A.H. - using both the surgical and orthopedic departments for surgical cases to broaden and expand the surgical knowledge of the resident. These three institutions provide a patient population of 5,598 patients for podiatry care.

At the completion of the second year, the resident will have completed a minimum of 200 surgical cases either as the surgeon of record or as the first assistant. Various categories of procedures are required in order to have the program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

In the future the podiatrists who are or will be applying for licensure in Kansas will have completed a two year hospital based program, having functioned totally in a hospital environment, writing and performing complex treatment programs that involve both medical and surgical knowledge of the patient and how that plan will affect not only the foot, but his general medical health. The resident has functioned totally within the scope of practice as a physician and surgeon of the human foot.



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EXECUTIVE SECRETARY

WAYNE PROBASCO
615 S. Topeka Blvd.
Topeka, Kansas 66603
(913) 354-7611

March 9, 1995

Dear Madam Chairwoman and Committee Members:

My name is Phyllis Ragley. I am the President of the Kansas Podiatric Medical Association. I have practiced podiatric medicine and surgery in Lawrence since 1980. I am also licensed to practice law in Kansas. I will be speaking to you this morning about the facts which have prompted and substantiate the revision of KSA 65-2002 (b).

An impetus for modifying KSA 65-2002(b) is that the original podiatry act was written in 1927. Over the last 68 years, much has changed in the didactic education and residency training of our profession. Our young practitioners today complete one, two, and three year residency training. As you have heard, however, some of these young and talented practitioners do not consider practicing podiatric medicine and surgery in Kansas due to the restrictive nature of our current law. Therefore, addressing the issue of scope of practice, such as it relates to amputations, is critical to updating the law, so it better reflects the current training of podiatric physicians. Hospitals and surgi-centers can then more appropriately credential podiatric surgeons according to that practitioner's training.

Modifying KSA 65-2002 (b) to define podiatrists as physicians and surgeons of the human foot follows federal and state legal precedent. Currently, 30 states define podiatrists as physicians.

Federally, Medicare, the Social Security Act, defines a doctor of podiatric medicine as a physician 42 USC 1395 (r) (3).

KAR 28-34 1 a (u) defines a physician as a person licensed in Kansas to practice medicine and surgery.

In Kansas, three Attorney General Opinions have dealt with the issue of podiatrists as a physician who practices medicine and surgery.

As early as 1959, an Attorney General's Opinion stated that a podiatrist was a physician within the federal Uniform Narcotics Drug Act.

Attorney General Opinion 80-217 states that a podiatrist does practice medicine and surgery, according to KSA 65-2869.

Most recently, Attorney General Opinion 94-148 states that the term physician includes podiatrists as defined by the Healing Arts Act and suggested that the podiatry act itself address the definition of podiatric physician.

Clearly, these three thoughtful and cogent Attorney General opinions establish that Kansas podiatrists are defined as physicians within the practice of the healing arts. See KSA 65-2802.

The totality of all these legal facts substantiates the requested modification of KSA 65-2002(b).

KPMA

Executive Office:
615 S. Topeka Blvd.
Topeka, Kansas 66603

Senate Public Health & Welfare

Date: 3-9-95
Attachment No. 3

From a professional viewpoint, we request the modification of KSA 65-2002(b) to more accurately reflect the current training and skills of today's podiatric physician and surgeon. Only medical doctors, doctors of osteopathy, and doctors of podiatric medicine fulfill the three prong test of KSA 65-2869, which defines those persons who practice medicine and surgery. As stated in the Kansas laws, a physician is one who practices medicine and surgery. These practitioners have prescribing privileges and perform surgery.

We would like the record to include the following statistics. Medicare data, from 1986-1988, shows podiatric surgeons performed the following:

82% of all hammertoe operations
71% of all metatarsal operations
70% of all bunionectomies
59% of all rearfoot procedures

Blue Cross and Blue Shield of Kansas reviewed five, common foot operation codes from July 1993 to June 1994 and found that podiatric surgeons performed **80%** of these operations in Kansas.

We would also like the record to reflect that KPMA worked with KDHE from July 1990 to April 1993 in the updating of hospital regulations. The rewritten regulations were approved by the KDHE hearing officer in March of 1993 but the sections that concerned podiatric surgeons and hospitals were subsequently set aside by the KDHE Secretary in April of 1993. The reason given for setting them aside was that the the Secretary did not wish to be a referee between professional groups. The Secretary also suggested that we take our issues to the Legislature. Now, after five long years, we are here before you, the final authority on these matters. We are hopeful that this modification will be readily approved by this committee, as it represents a clear, simple, and non-technical statutory revision.

On behalf of the Kansas Podiatric Medical Association, I would like to thank you, Madam Chairwoman, and this Committee for the opportunity to address you this morning on this issue. We very much appreciate your time and consideration. I will gladly respond to your questions.

Gary D. Boston, M.D.

ORTHOPEDIC SURGERY
4510 S. 4TH ST. TRAFFICWAY
LEAVENWORTH, KS 66048
(913) 727-2040

January 31, 1995

Madam Chairman and Members
Of The Public Health And Welfare
Committee:

I have practiced orthopaedic surgery for over 15 years, receiving my medical degree from the University of Maryland and my residency training at Henry Ford Hospital in Detroit, Michigan.

During the course of my practice experience, I have taught podiatric surgical residents foot surgery at Munson Army Hospital at Fort Leavenworth, Kansas. In these teaching experiences, I have found these physicians to be well trained and qualified in the management of the foot pathology by medical and surgical means, including amputations.

I urge you to support the proposed modification of KSA 64-2002 (b) so that Kansas podiatric physicians may practice the current state of the art podiatric medicine and surgery.

Thank you for this opportunity to address this committee on this issue.

Sincerely,


Gary D. Boston, M.D. P.A.

GDB/rra
c:if



KANSAS MEDICAL SOCIETY

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

February 23, 1995

To: Senate Public Health and Welfare Committee
From: C. L. Wheelen, KMS Director of Public Affairs *Chris*
Subject: Senate Bill 55; Expansion of Podiatry

Thank you for the opportunity to testify in opposition to SB55. This bill would significantly expand the statutory scope of podiatry in Kansas by allowing podiatrists to perform extremely dangerous surgical and medical procedures.

First let me clarify a common misunderstanding that contributes to two very convoluted and misleading Attorney General opinions. There are only three branches of the healing arts under the Kansas Healing Arts Act; allopathic medicine (M.D.s), osteopathic medicine (D.O.s), and chiropractic (D.C.s). For an excellent description of how the Kansas Healing Arts Act evolved, please refer to the 1994 interim committee report by the Special Committee on Public Health and Welfare.

Perhaps the reason that some attorneys and others become confused about podiatry is because podiatrists are licensed and regulated by the same agency that licenses and regulates physicians and chiropractors; the State Board of Healing Arts. But the laws are separate and podiatrists are not licensed to engage in the healing arts.

Furthermore, although the podiatry act authorizes podiatrists to prescribe drugs and perform surgery on the human foot, this does not make them physicians. Any conclusion to the contrary is totally inconsistent with K.S.A. 65-2869 (a section of the Healing Arts Act) which describes persons licensed to practice medicine and surgery as "persons who attach to their name the title M.D., surgeon, physician, physician and surgeon." In other words, a physician is someone licensed to practice medicine and surgery under the Healing Arts Act. In contrast, one provision of K.S.A. 65-2001, the definitions section of the Podiatry Act, states succinctly that one who practices podiatry is a podiatrist.

The Podiatry Act (K.S.A 65-2001 *et seq*) absolutely prohibits amputation and strictly limits anesthesia to local anesthetic. This is because general anesthesia is extremely dangerous as is amputation. Such procedures should be performed by a physician who has had the benefit of a comprehensive medical education and the clinical training necessary to obtain a license to practice medicine and surgery. While the education and training of a podiatrist may be impressive, it is not the same as medical education and training.

Thank you for taking our concerns into account. We urge you to **defeat SB55.**

Senate Public Health and Welfare
Date: 3-9-95
Attachment No. 4

KANSAS STATE SOCIETY OF ANESTHESIOLOGISTS

Component society of
The American Society of Anesthesiologists, Inc.

March 3, 1995

To the Honorable members of the Senate Public Health and Welfare Committee:

Madam Chairman and members of the Committee:

I have read the proposed changes in Senate Bill 55 and I wish to express grave concern at the removal of the language that states, "...but no podiatrist shall amputate the human foot or toes or administer any anesthetic other than local."

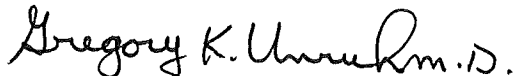
With this language removed, podiatrists might be able to administer conduction anesthesia (nerve blocks, epidural, and spinal) or general anesthesia. To my knowledge, podiatrists have no formal training in these types of anesthetics that are difficult to perform and require a high degree of skill to administer. These procedures can be dangerous and can have a high complication rate even when performed with great technical skill. Even the expected actions of the medications can be difficult to manage.

In addition, this type of anesthetic cannot be managed by the person performing the operative procedure. A patient receiving these types of anesthetics requires continual, constant monitoring of vital signs, and preparation for resuscitation. These tasks cannot be performed while completing a surgical procedure.

An anesthesiologist requires four years of college, four years of medical school, and four years of residency training to be able to carry out these types of anesthetics. We should not allow podiatrists to enter the practice of this type of medicine.

In the interest of patient safety, I urge you to retain the language in Senate Bill 55 that states....."no podiatrist shall.....administer any anesthetic other than local."

Thank you for allowing me to express my views on this matter.



Gregory K. Unruh, M.D.
Associate Professor of Anesthesiology and
President, Kansas State Society of Anesthesiologists

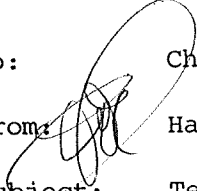
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Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

1260 S.W. Topeka Blvd.
Topeka, Kansas 66612
(913) 234-5563
(913) 234-5564 Fax

March 09, 1995

To:  Chairperson Praeger and Members, Senate Public Health Committee
From: Harold Riehm, Executive Director, Kansas Assoc. of Osteopathic Medicine
Subject: Testimony on S.B. 55

Thank you for this opportunity to present our views on S.B. 55. We appear today in opposition to most of the provisions of this Bill.

We think there are legitimate concerns as to the sufficiency of training and education of those who practice podiatry to both amputate a human foot and administer a general anesthetic. Amputation of a foot is most often caused by either trauma or vascular disease, the latter in many cases related to diabetes. The health implications of both very often require diagnosis and treatment of a complex range of symptoms and related ailments.

Once again, we respectfully suggest, that this appears to be an example of the expansion of a scope of practice that needs extensive examination and review. The use of criteria like access, quality and cost are important, yet each has several aspects that need examination as to how these criteria interrelate.

To use a criterium like permitting a provider to practice whatever he or she is taught is to omit the important quality factor of the relationship of the procedure performed to the total health or physical well being of the patient. We think credentialing or expansion of scope of practice acts need to be examined within this context.

Senate Public Health and Welfare
Date: 3-9-95
Attachment No. 5

FAX TRANSMITTAL SHEET

SEN PRAEGER
128-S

NUMBER OF PAGES (INCLUDING THIS SHEET): 2

DATE: 3/08/95 TIME OF DAY: _____

TO: Senator Sandy Praeger

FROM: Joe Pucci

** Attention JoAnn

PLUMBING & PIPEFITTING INDUSTRY
HEALTH & WELFARE FUND OF KANSAS

FAX (316) 264-9245

PLEASE NOTIFY OUR OFFICE IF YOU DO NOT RECEIVE ALL PAGES

MESSAGE:

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Senate Public Health and Welfare
Date: 3-9-95
Attachment No. 6

Collective Bargaining**CATERPILLAR RESCINDS PLAN TO STRIP STRIKERS' PENSION CREDITS**

CHICAGO—To avoid litigation over an amendment to its pension program, Caterpillar Inc. announced Feb. 22 it is rescinding a plan to strip pension credits from employees engaged in the eight-month-old strike against the heavy equipment manufacturer.

Caterpillar believes it was within its rights to deny strikers pension credits, but is stepping back from its position "to avoid prolonged litigation and to eliminate any uncertainty it may cause employees," according to Wayne Zimmerman, vice president of the Peoria, Ill.-based construction equipment manufacturer.

Caterpillar amended its pension plan Dec. 1, 1994, eliminating pension credits for striking workers retroactively to Aug. 31, 1994. Approximately 10,000 Caterpillar employees represented by the United Auto Workers have been on strike against the company since June 21, 1994 (21 BPR 2226).

"Caterpillar continues to believe that striking employees should not earn pension credits for the time they are on strike," Zimmerman said. "We fully intend to promptly negotiate with UAW leaders on new pension provisions consistent with our beliefs."

UAW Welcomes Decision

UAW applauded the company's decision. The union has argued that Caterpillar created the amendment as a tool for intimidating striking UAW-represented workers.

"This is a tremendous victory for our striking members at Caterpillar. The company tried to deny accrual of pension credits to strikers for one reason and one reason only: to encourage people to cross union picket lines. Cat's maneuver failed," said Bill Casstevens, UAW secretary-treasurer.

UAW filed a class action suit against Caterpillar, requesting Caterpillar be found in violation of the Employee Retirement Income Security Act. Despite Zimmerman's comments, Casstevens said the company backed down from its position because "they knew they would lose in federal court."

Roger Kerson, a UAW spokesman, said he is uncertain about the status of the class action suit in light of Caterpillar's decision to restore pension credits. He noted, however, that the company has been in contact with the union to discuss the matter.

The National Labor Relations Board also took issue with the amendment to Caterpillar's pension plan, issuing a complaint against the company Dec. 30, 1994. The NLRB alleged the company attempted to interfere with workers' rights to strike, in violation of the National Labor Relations Act, by refusing to tabulate pension credits for striking workers.

Glenn Zipp, director of the NLRB's regional office in Peoria, said he was unsure what Caterpillar's announcement means in terms of the complaint. He said the company has not yet discussed its plans with the NLRB either formally or informally.

COLLECTIVE BARGAINING**PRIVATE SECTOR BARGAINING**

Service Employees International Union Local 73 held off a campaign by one of the nation's largest hospital chains to strip health benefits from part-time employees of Michael Reese Hospital in Chicago.

Susan Erem, spokeswoman for Local 73, said approximately 98 percent of the union's membership voted Feb. 15 to ratify a three-year contract that continues medical benefits for both full-time and part-time workers who currently are employed. Under the contract, however, the union agreed that part-time employees hired from outside would not be extended health benefits.

The contract covers more than 800 certified nursing assistants, service and maintenance workers, and administrative clerical workers at Reese, which is owned by the health care chain Columbia/HCA Healthcare Corp. The contract extends through Nov. 9, 1997.

Erem said the union's previous contract expired Nov. 30, 1994, but negotiations with Reese snagged when the hospital insisted it be able to strip part-time workers of health care benefits. Such benefits, on a pro-rated basis, had previously been guaranteed to the 100 part-time workers. The union said it considered the move a scheme by the hospital to cut costs by shifting large numbers of full-time staffers to part-time schedules.

"We thought this would essentially give them the incentive to part-time a large portion of the workforce," Erem said.

Disagreement over the issue escalated in January when the hospital suspended its practice of withholding membership dues from employee paychecks, Erem said. The union took a strike authorization vote on Jan. 31, receiving support from 91 percent of its members.

Erem said the hospital finally agreed in February to guarantee pro-rated benefits for current part-time employees and any current full-time employees forced to accept part-time schedules in the future.

NEWS BRIEFS**Fifty IRA Bill Co-Sponsors Predicted**

Mark Mullett, an aide to Senate Finance Committee member Bill Roth (R-Del), predicted Feb. 21 that within the next several weeks Roth's individual retirement account expansion bill (S 12) will have 50 co-sponsors.

Mark Mullett said the legislation currently has 32 co-sponsors. Roth introduced the measure in January with Sen. John Breaux (D-La.) (22 BPR 80).

Under the bill, pre-1987 tax benefits to IRAs would be restored. The bill also would create a new flexible IRA for which contributions would not be deductible but earnings would not be taxed when withdrawn.

SENATE BILL No. 321

By Committee on Public Health and Welfare

2-14

9 AN ACT enacting the community health cooperation act; relating to the
10 construction, development or other establishment of new hospitals or
11 the purchase or lease of existing hospitals within certain areas of the
12 state; providing for the creation of community health cooperation
13 councils; providing powers and duties thereof; relating to taxation of
14 certain hospital property; amending K.S.A. 65-427 and repealing the
15 existing section.
16

advisory

17 *Be it enacted by the Legislature of the State of Kansas.*

18 New Section 1. Sections 1 to 5, inclusive, of this act shall be known
19 and may be cited as the community health cooperation act.

20 New Sec. 2 (a) On and after the effective date of this act, no person
21 shall undertake in any county of this state in which there is located a city
22 hospital, district hospital or county hospital, organized pursuant to the
23 laws of this state, the construction, development or other establishment
24 of a new hospital or purchase or lease of an existing hospital unless such
25 person first notifies the board of county commissioners of the county in
26 which the new hospital is proposed to be located or in which the existing
27 hospital is located or, if a new hospital is proposed to be located within
28 the city limits of a city in which is located an existing city hospital or if
29 the existing hospital which is proposed to be purchased or leased is a city
30 hospital and is located within the city limits of a city, notifies the governing
31 body of the city.

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advisory

32 (b) Within 30 days after receipt of such notice, the board of county
33 commissioners or the governing body of the city, as appropriate, shall
34 notify the person who has declared an intention to construct, develop or
35 otherwise establish a new hospital or purchase or lease an existing hospital
36 as to whether or not a community health cooperation council will be
37 appointed as provided in this act.

38 (c) If a community health cooperation council is appointed under this
39 act, no construction, development or other establishment of a new hos-
40 pital or purchase or lease of an existing hospital shall commence until the
41 community health cooperation council has been appointed and has com-
42 pleted its duties as provided under this act. In no case shall limitation on
43 the construction, development or other establishment of a new hospital

Senate Public Health & Welfare
Date: 3-9-95
Attachment No. 7

7-2

or purchase or lease of an existing hospital under this section apply more than 90 days subsequent to the notice provided to the board of county commissioners or governing body of the city by the person intending to undertake such project.

(d) If the board of county commissioners or the governing body of the city, as appropriate, decides not to appoint a community health cooperation council, the board of county commissioners or governing body shall notify (1) the person intending to undertake the construction, development or other establishment of a new hospital or purchase or lease of an existing hospital that no community health cooperation council will be appointed and (2) the secretary of health and environment that no community health cooperation council will be appointed. Upon receipt of such notice, the person intending to undertake the construction, development or other establishment of a new hospital or purchase or lease of an existing hospital, subject to all applicable laws relating thereto, may commence the project to construct, develop or otherwise establish a new hospital or purchase or lease an existing hospital within the county or city as specified by such person when giving the notice of intent to undertake the project or purchase or lease to the board of county commissioners or governing body of the city.

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New Sec. 3. (a) The board of county commissioners or governing body of the city, as applicable, upon the receipt of a notice of intent to undertake the construction, development or other establishment of a new hospital or purchase or lease of an existing hospital under subsection (a) of section 2 and amendments thereto may appoint a community health cooperation council of not less than five members nor more than 15 members to hold public hearings and collect information with respect to the construction, development or other establishment of a new hospital or purchase or lease of an existing hospital within the territory of the county or city

advisory

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and advise the board of county commissioners or governing body, as appropriate,

(b) The hearings shall be designed to solicit information from the general public and from the person giving such notice about the following:

(1) The geographical area and the population to be served by the hospital.

(2) the anticipated demand for the health care service and services to be provided;

(3) a description of the service or services to be provided;

(4) the use, adequacy and availability of existing facilities and services within the area to be served offering the same or similar health care services;

(5) projected cost estimates of capital expenditures and operating expenses;

(6) projected staffing of the service;

43

(7) schematic plan of construction for the new hospital if the project is for a new hospital;

(8) the benefit to the community which would result from the development of the project, as well as the anticipated impact on other providers offering the same or similar health care services in the geographical area to be served; and

(9) other information which may be specified by the council.

New Sec. 4. Upon the conclusion of such public hearings, the community health cooperation council shall negotiate with the person filing under subsection (a) of section 2 and amendments thereto notice to construct, develop or otherwise establish a new hospital or who proposes to purchase or lease an existing hospital a community benefit agreement which shall state the community expectations of availability of services to be provided, the coordination of services with existing facilities, the opportunities for minimizing duplication of services, the care to be provided uninsured and underinsured persons, the benefits to the community which will result and other matters relating to community expectation which the parties to the community benefit agreement deem appropriate.

Upon the completion of the agreement, the public findings of the community health cooperation council and the agreement reached by the council with such person shall be filed with the board of county commissioners or the governing body which appointed the council.

New Sec. 5. (a) Hospital property which has been exempt from taxation because such property was owned by a city, county or hospital district and which due to transfer of ownership has ceased to be exempt from taxation shall be subject to taxation as any other hospital property which is subject to taxation. In addition thereto, such hospital property shall be subject to personal and real property tax for the five tax years immediately preceding the date of transfer of ownership of the property if the property has been tax exempt for five or more years immediately preceding the date of transfer of such property or if the property has not been tax exempt for such time for the number of years the property has been tax exempt, if the secretary of health and environment determines, after notice and hearing, that the new owners of the hospital have substantially failed to comply with a community benefit agreement entered into under section 4 and amendments thereto. Any person aggrieved by the decision of the secretary of health and environment under this subsection may appeal the decision in accordance with provisions of the act for judicial review and civil enforcement of agency actions.

(b) If property under subsection (a) is found to be subject to personal and real property tax for tax years immediately preceding the date of transfer of ownership of the property as provided in subsection (a), it shall be the duty of the county appraiser to list and appraise such property for

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, under the supervision of the board of county commissioners or the governing body,

preliminary

The preliminary agreement shall be in writing.

a preliminary

preliminary

advisory

The preliminary agreement shall become a final agreement upon approval by the board of county commissioners or the governing body, as applicable.

has

7-4

each such year during which such property was not taxed, and it shall be designated on the appraisal roll as "added appraisal" for each such preceding year or years. The county clerk, upon receipt of the valuation for such property shall place such property on the tax rolls and compute the amount of tax due based upon the mill levy for the year or years in which such tax would have been levied, and shall certify such amount to the county treasurer as an added appraisal. The amount of such tax shall be due immediately and payable within 45 days after the issuance of an additional property tax bill by the county treasurer. No interest shall be imposed unless the tax remains unpaid after such 45 day period. Taxes levied pursuant to this section which remain unpaid after such 45 day period shall be deemed delinquent and the county treasurer shall collect and distribute such tax in the same manner as prescribed by law for the collection and distribution of other taxes levied upon property which are delinquent. If the owner of such property is deceased, taxes charged as herein provided shall be levied against the estate of such deceased person and shall be paid by the legal representative or representatives of such estate.

(c) Any tax collected under this section shall be distributed as otherwise provided by law except that with the agreement of the local taxing districts eligible to receive such revenues the revenues which would have been received by the local taxing districts may be placed in a community fund, in accordance with such agreement, to support local health initiatives as provided in the agreement.

Sec. 6. K.S.A. 65-427 is hereby amended to read as follows. 65-427. After July 1, 1973, (a) No person or governmental unit, acting severally or jointly with any other person or governmental unit shall establish, conduct or maintain a medical care facility in this state without a license under this law.

(b) The agreement reached by the community health cooperation council and by the person filing notice under subsection (a) of section 2 and amendments thereto to construct, develop or otherwise establish a new hospital or to purchase or lease an existing hospital shall be a part of any license issued for the hospital and shall be enforceable by the licensing agency as a condition on the license. If a community health cooperation council is appointed under section 3 and amendments thereto, no license shall be granted to any person who has filed a notice under subsection (a) of section 2 and amendments thereto for the construction, development or other establishment of a new hospital or for the purchase or lease of an existing hospital unless such person has cooperated with the community health cooperation council under the community health cooperation act and an agreement has been reached by the community health cooperation council and such person under section 4 and amend-

final written

board of county commissioners or the governing body

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a written

board of county commissioners or governing body, as appropriate,

State of Kansas

Bill Graves



Governor

Department of Health and Environment
James J. O'Connell, Secretary

Testimony presented to

Senate Committee on Public Health and Welfare

by

The Kansas Department of Health and Environment

Senate Bill No. 348

Senate bill 348 revises licensure statutes for speech-language pathologists and audiologists, a licensure program administered by the Kansas Department of Health and Environment Health Occupations Credentialing unit. This licensure program was established in statute following a recommendation for credentialing from the health occupations review technical committee and the Department's Secretary. Licenses were first issued in 1993 with the current year being the first renewal period.

The primary changes this bill addresses include the elimination of the "grandfathering" language of the original statute, clarification of out-of-state applicants for licensure including an endorsement fee established in statute, criteria for issuing temporary licensure, and criminal convictions relative to disciplinary actions.

These changes have been consistent with counsel from the advisory board for the licensure program. For example, Section 2., KSA 65-6506 (d), though historic in nature, is no longer applicable and serves to confuse the constituency interested in this law. The licensing of individuals holding licensure in another state has been hampered by the language of the original law under sub-section (e) because that language did not identify factors to be considered in determining whether out of state qualifications are equivalent to those of Kansas. The changes recommended by this bill are aimed at allowing professionals of other states to be recruited into Kansas and licensed without an inordinate amount of requisites.

Senate Public Health and Welfare

Date: 3-9-95

Attachment No. 8

Health Occupations Credentialing, Mills Building 400B
109 SW 9th Street, Topeka KS 66612-2218

The Department requests consideration of the following balloon amendments:

Section 2. KSA 65-6506 (a) add language as follows: "The secretary may issue a provisional licensure for a period of less than two years for the purpose of administratively adjusting renewals. In such case, the licensee shall be charged a pro-rated renewal fee based upon current renewal fee structure." By statute, each licensee is to renew every two years. Peak renewals occur during the first licensure period. An adjustment of the renewal of licenses would provide for a more even distribution of workload and fees collected by the unit.

Section 2. KSA 65-6506 (d)(2) identifies how applicants from another state may be credentialed in Kansas. The Department requests that on line 8, ..."300 hours or more of" be deleted and replaced with "a", allowing for rules and regulations to address the issue of specific number of hours necessary under clinical practicum experience. This will facilitate adjustment of the requirements to meet future national and Kansas standards without an amendment to the statute and will permit needed flexibility in making individual determinations of equivalency for out of state applicants.

Section 2. KSA 65-6506 (e) specifies the conditions for issuing temporary licensure. The Department recommends that an amendment be made to line 22 deleting language after "...period of 12 months..." through line 26 and inserting "pursuant to rules and regulations." This amendment references the rules and regulations which are specific to the temporary licensure requirements and process.

The Kansas Department of Health and Environment respectfully requests that the committee act favorably in the passage of Senate bill 348 with the identified balloon amendments.

Presented by: Lesa Bray, Director
Health Occupations Credentialing
Bureau of Adult and Child Care
March 9, 1995

SENATE BILL No. 348

By Committee on Federal and State Affairs

2-21

9 AN ACT concerning licensing of speech-language pathologists and au-
10 diologists; amending K.S.A. 65-6505, 65-6506 and 65-6508 and re-
11 pealing the existing sections.

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

13 Section 1. K.S.A. 65-6505 is hereby amended to read as follows: 65-
14 6505. Speech-language pathologists or audiologists shall meet the follow-
15 ing qualifications for licensure under this act:

16 (a) ~~Possess Possession of~~ at least a master's degree ~~or equivalent~~ in
17 speech-language pathology or audiology from an educational institution
18 with standards consistent with those of the state universities of Kansas
19 approved by the secretary which consists of a course of study consistent
20 with the standards of the state universities of Kansas approved by the
21 secretary pursuant to the rules and regulations;

22 (b) ~~complete completion of~~ supervised clinical practicum experiences
23 from an educational institution or its cooperating programs the content
24 of which shall be approved by the secretary and shall be consistent with
25 the standards of the state universities of Kansas and delineated in the
26 rules and regulations;

27 (c) ~~complete completion of~~ a postgraduate professional experience as
28 approved by the secretary pursuant to the rules and regulations; and

29 (d) ~~pass passage of~~ an examination in speech-language pathology or
30 audiology approved by the secretary pursuant to rules and regulations.

31 Sec. 2. K.S.A. 65-6506 is hereby amended to read as follows: 65-
32 6506. (a) Any applicant for licensure shall submit an application to the
33 secretary upon the forms prescribed and furnished by the secretary and
34 shall pay appropriate fees as established by the secretary, including ex-
35 amination fees if required. All licenses shall expire after two years and
36 may be renewed by submitting an application, showing proof of com-
37 pleting required continuing education and paying a renewal fee to be
38 established by rule and regulation and collected by the secretary.

39 (b) At least 30 days before the expiration of the license, the secretary
40 shall notify the licensee of the expiration by mail addressed to the licen-
41 see's last place of residence as noted upon the office records. If the li-
42 censee fails to submit an application and fee by the date of expiration of
43

The secretary may issue a provisional license for a period of less than two years for the purpose of administratively adjusting renewals. In such case, the licensee shall be charged a pro-rated renewal fee based upon current renewal fee structure.

8-3

8-4

1 the license, the licensee shall be given a second notice that the license
2 has expired and the license may only be renewed if the application, re-
3 newal fee, and late renewal fee are received by the secretary with the
4 ~~thirty-day~~ 30-day period following the date of expiration and, if both fees
5 are not received within the ~~thirty-day~~ 30-day period, the license shall be
6 considered to have lapsed for failure to renew and shall be reissued only
7 after the applicant has been reinstated under subsection (c). *Temporary*
8 *licenses may be renewed for one consecutive 12-month period upon pay-*
9 *ment of renewal fee and documentation of failure to complete require-*
10 *ments for which the temporary license was originally issued.*

11 (c) *Any licensee who allows the licensee's license to lapse by failing*
12 *A licensee who fails to renew as herein provided may be reinstated upon*
13 *payment of the renewal fee and the reinstatement fee, and upon sub-*
14 *mitting evidence of satisfactory completion of any applicable continuing*
15 *education requirements established by the secretary. The secretary shall*
16 *adopt rules and regulations establishing appropriate continuing education*
17 *requirements for reinstatement of persons whose licenses have lapsed for*
18 *failure to renew.*

19 (d) *Upon due application and payment of a licensure fee as estab-*
20 *lished by the secretary within one year subsequent to September 1, 1992,*
21 *the secretary may waive the examination and grant a license to any ap-*
22 *plicant so long as the applicant: (1) Has met the educational, supervised*
23 *clinical practicum experiences and postgraduate professional experience*
24 *set forth in this act on or before September 1, 1992; or (2) has a master's*
25 *degree or equivalent in speech-language pathology or audiology and has*
26 *been actively engaged in the practice of speech-language pathology or*
27 *audiology for at least two years of the last four years immediately pre-*
28 *ceding September 1, 1992; or (3) holds a current teaching certificate by*
29 *the Kansas department of education as a speech-language pathologist or*
30 *audiologist on the effective date of this act; or (4) has a bachelor's degree*
31 *in speech-language pathology or audiology and has been actively engaged*
32 *in the practice of speech-language pathology or audiology for at least*
33 *three years of the last four years immediately preceding September 1,*
34 *1992.*

35 (e) *The secretary, upon application and payment of the fee fixed by*
36 *the secretary, may issue a license as a speech-language pathologist or*
37 *audiologist to any person who holds a valid license or its equivalent issued*
38 *to such person by another state or country if the requirements for the*
39 *licensure of the speech-language pathologist or audiologist under which*
40 *such license or equivalent was issued are equivalent to or exceed the*
41 *standards of this act.*

42 (d) *The secretary may issue a license to a person holding a valid li-*
43 *cence in another state if:*

8-5

1 (1) The secretary receives from the issuing state or states documen-
2 tation that the licensee is currently in good standing with no violations or
3 sanctions pending or in effect;

4 (2) the applicant: (A) Meets current educational, clinical practicum,
5 postgraduate professional experience and examination requirements; or
6 (B) has received a masters degree awarded prior to January 1, 1993, with
7 a major course of study in speech-language pathology or audiology, or
8 both, and 300 hours or more of supervised clinical practicum experience
9 and has completed postgraduate professional experience and passed an
10 examination in speech-language pathology or audiology, or both, pursu-
11 ant to rules and regulations; and

a

12 (3) the applicant pays an endorsement and application fee pursuant
13 to rules and regulations.

14 (f) (e) The secretary, upon application and payment of the temporary
15 licensure fee, and submission of evidence of successful completion of the
16 education and supervised clinical practicum experiences, may issue a tem-
17 porary license, which shall expire 12 months from the date of issuance.
18 The temporary license may be renewed for one period not to exceed 12
19 months by appeal to the secretary if the applicant has failed the exami-
20 nation or failed to complete the postgraduate professional experience may
21 issue a temporary speech-language pathology or audiology license for a
22 period of 12 months to a person who has met the licensure requirement
23 of educational and clinical practicum as specified in K.S.A. 65-6505 and
24 amendments thereto but has not yet completed the postgraduate profes-
25 sional experience or passed the examination required by K.S.A. 65-6505
26 and amendments thereto.

pursuant to rules and regulations.

27 Sec. 3. K.S.A. 65-6508 is hereby amended to read as follows: 65-
28 6508. The secretary shall deny, revoke, suspend or limit the license pro-
29 vided for in this act for any of the following reasons:

30 (a) Making a false statement on an application for a license, or any
31 other document required by the secretary;

32 (b) engaging or attempting to engage, or representing oneself as so
33 entitled, to perform procedures not authorized in the license;

34 (c) demonstrating incompetence or making consistent negligent er-
35 rors in tests or procedures;

36 (d) engaging in dishonorable, unethical or unprofessional conduct of
37 a character likely to deceive, defraud or harm the public, as defined by
38 rules and regulations;

39 (e) providing professional services while mentally incompetent, un-
40 der the influence of alcohol or narcotic or controlled substance that is in
41 excess of therapeutic amounts or without valid medical indication;

42 (f) violating or aiding and abetting in a violation of any provisions of
43 this act or any of the rules or regulations adopted under this act; or

8-6

1 (g) *having been convicted of a crime found by the secretary to have*
2 *a direct bearing on whether one should be entrusted to serve the public*
3 *in the capacity of a speech-language pathologist or audiologist.*

4 Sec. 4. K.S.A. 65-6505, 65-6506 and 65-6508 are hereby repealed.

5 Sec. 5. This act shall take effect and be in force from and after its
6 publication in the statute book.