Approved: February 12, 1996
Date

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Carlos Mayans at 1:30 p.m. on February 7, 1996 in Room 423-S of the State Capitol.

All members were present except: Representative Merritt
Representative Yoh

Committee staff present: Emalene Correll, Legislative Research Department
Norman Furse, Revision of Statutes
Francie Marshall, Committee Secretary

Conferees appearing before the committee:
Don Richards, Kansas Respiratory Care Society
Mark Aberle, Clinical Mgr. of Respiratory Services,Wesley Medical Center
Russ Babb, Director of Respiratory Care Services, Salina Regional Health Center
Pat Munzer, Program Director/Associate Professor Washburn University
Don Silkey
Larry Buening, State Board of Healing Arts
Lesa Bray, Health and Environment
Pat Johnson, Executive Administrative Secy. for Board of Nursing
Jeff Tarrant, Kansas Hospital Association

Others attending: See Guest List: Attachment 1

The minutes of the meeting held on February 5, 1996 were approved.

Chairperson Mayans opened the hearing on **HB 2765**.

HB 2765 - Respiratory care practitioners

The following proponents presented testimony supporting **HB 2765**:
Don Richards, Kansas Respiratory Care Society, stated reasons why it is necessary for licensure (Attachment 2),
Mark Aberle, Clinical Manager, Respiratory Services, Total Home Care/Columbia Wesley Medical Center, noted that there are thirty-three states requiring state licensure for respiratory care practitioners, (RCPs), instead of thirty-one as indicated in his testimony (Attachment 3),
Russ Babb, Directory of Respiratory Care Services, Salina Regional Health Center (Attachment 4),
Pat Munzer, Program Director/Associate Professor Washburn University, (Attachment 5),
Don Silkey, a patient suffering from emphysema (Attachment 6),
Larry Buening, Executive Director of Kansas Board of Healing Arts (Attachment 7).
Pat Munzer held a demonstration with Representative Kirk showing her how to perform a simple task with an oxygen tank.

The following written testimony was submitted in support of **HB 2765**:
Lavonne Frizell, patient from Emporia, Kansas (Attachment 8),
Linda McClain, Overland Park, Kansas (Attachment 9),
Dr. Robert L. Sidlinger, Neonatologist (Attachment 10),
Judy Keller, Executive Director of American Lung Association (Attachment 11).

The hearing was opened for questions to the proponents.

Questions pertaining to the credentials and physicians' referrals of Respiratory Therapists were addressed. Issues regarding hospital employment requirement, training for R.T.'s, and the delegation tasks in the Nurse Practice Act were discussed.

The hearing was opened to the opponents.

The following testified in opposition to **HB 2765**:
Lesa Bray, Director of Health Occupations Credentialing (Attachment 12),
Pat Johnson, Executive Administrator, Kansas State Board of Nursing (Attachment 13),
Jeff Tarrant, Kansas Hospital Association (Attachment 14).
Lesa Bray stated the Department of Health and Environment opposes the bill because of its negative impact on the credentialing process in Kansas. Pat Johnson expressed concern about some of the language of the bill and offered a balloon. Jeff Tarrant noted the bill contains restrictive language that is contradictory and controversial.

The hearing was opened for questions to the opponents.

Several questions were asked regarding qualifications of those who were grandfathered in prior to 1987. Based on experience and training, a carry over provision was made for those to re-register in 1987. On issues of criteria questions, Lesa Bray stated the areas covering equipment, reimbursement requirements, and facility licensure were not met. The one criteria not met in 1993 had substantial affect on other professional and credential groups. The definition of the term "under a qualify medical director" as written in the bill was directed to Norm Furse, Revisor of Statutes. Mr. Furse stated that he was unfamiliar with the term.

Jeff Tarrant expressed concern about the care that is delivered to the rural population and the affect licensing would have on staffing as only 50% are qualified for licensure. He stated rural hospitals do use registered respiratory care practitioners and trained nursing personnel as well.

The hearing on **HB 2765** was closed.

Chairperson Mayans reminded the committee members that the next meeting would be in Room 313-S that is scheduled for February 8, 1996.

The meeting was adjourned at 3:15 p.m.

House Health & Human Services COMMITTEE GUEST LIST

DATE February 7, 1996

NAME	REPRESENTING
Ed. Hodgsmith	Self + American Legion
Don Allen	SELF
Karen DeKell	Kansas Respiratory Care Society
Paul Mathews	KU Resp Care Educ.
Tiffany Boyles	WU Social Work
Susan Filley	Olathe Medical Center
Merrill Shipps	Olathe Medical Center
Don Dirks	KS Resp Care Society
Beverly J Mooney	Ks. Resp. Care Society
Marshall L. Post	Ks Resp. Care Society
Cynthia Tate	Ks Resp Care Society
Susan Susan	Kansas Resp. Care Society
Clinton E. Olson	SELF
Tom Bell	KS Hosp. Assn.
Jeff Tarrant	KS Hospital Association
Kirk Mays	Ks Health Institute
Missi McCormick	Kansas Resp. Care Society
April Wesley	Kansas Resp Care Society by Osage Hospital
Cheryl DeBrot	Kansas Respiratory Care Society

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2-7-96
att'm #1

House Health & Human Services COMMITTEE GUEST LIST

DATE February 7, 1996

NAME	REPRESENTING
Ruby Paulsen	Onaga, Ks - Bronchitis
Melissa Wangemann	Hein Ebert & Weir
Rick Guthrie	Health Midwest
Pat Johnson	Board of Nursing
Jim Campbell	KSOS
PHILIP HURLEY	PATRICIA J. HURLEY & CO
Paula M. Thompson	Kansas Respiratory Care Society
Morgan Chilson	Topeka Cap-Journal

TESTIMONY ON RESPIRATORY THERAPIST LICENSURE
BEFORE THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

Mister Chairman,
Members of the Committee,

My name is Don Richards, I am a Registered Respiratory Therapist with over twenty-five years experience in this profession including clinical, management, and educational aspects. I wish to speak in favor of upgrading the Respiratory Therapist's credential to licensure.

Why is licensure necessary?

Licensure is necessary to ensure the protection of public health and safety by setting a minimum standard of education and competency for persons providing a critical service. Licensure is also necessary to protect the public from individuals that failed to meet these standards, or because they had disciplinary actions against them. While one cannot legislate competency, licensure does, in this case, assure the health care consumer in need of Respiratory Care services that the person providing the service has met certain standards and has demonstrated a degree of competency.

I truly believe that one of the main reasons Respiratory Therapists haven't received licensure in the past is because unless you suffer from a pulmonary disorder and/ or have required the services of a Respiratory Therapist, you are probably unaware of the vast scope of responsibility and services that Respiratory Therapists provide. Respiratory Therapists deal with patients in virtually all patient care settings including hospitals, nursing homes, clinics, and in the home. Working alongside and under the prescription of a physician, Respiratory Therapists engage in very sophisticated and comprehensive pulmonary diagnostics, they provide comprehensive airway management including the placement of an endotracheal tube in a person's trachea, they are seen as specialists in the area of mechanical ventilation and artificial life support, they are seen as "the experts" in providing care for patients suffering from Chronic Obstructive Pulmonary Diseases such as Emphysema, and Chronic Bronchitis, they are seen as "the experts" in providing comprehensive oxygen services over the entire spectrum from the hospital to the home, they are a critical member of resuscitation teams in that they provide for total airway management, they obtain specimens for analysis under many circumstances including the sampling of arterial blood and the procurement of lung specimens under sterile conditions. Finally, even though the Respiratory Therapist operates under medical direction, they deal with patients on a one-on-one basis and are required to demonstrate a high degree of independent judgment. Routinely a Respiratory Therapist must quickly make decisions given certain patient circumstances, and many times these decisions are life-saving in nature requiring instant and appropriate response with no time for consultation.

H+HS Comm
2-7-96
Attm # 2

As you can tell, Ladies and Gentlemen, Respiratory Therapists are recognized health care professionals specializing in the delivery of very sophisticated and life saving services.

The existing credential for Respiratory Therapists in Kansas is Registration. Quite simply, title protection. As long as one does not call themselves a Respiratory Therapist, one can be placed in a position to deliver respiratory care services. The consumer, therefore, has no assurance that a trained and competent individual is providing their care. On-the-job trained personnel are appropriate at certain functions, however, there currently is very little to prevent these individuals from performing sophisticated respiratory care related patient-care functions for which they were not appropriately trained. In life threatening situations this could prove to be fatal, and in lesser situations in could prove to be very expensive due to improper therapy or a missed clinical observation.
The Executive Director of the State Board of Healing Arts made this observation several years ago and noted that Respiratory Therapists need licensure in Kansas, thus joining 33 other states including three of our neighbors, which already have full licensure for Respiratory Therapists.

You have a unique opportunity ladies and gentlemen, to upgrade an existing credentialing act which was originally written as a licensure bill with all the necessary provisions already in existence and regulated by the State Board of Healing Arts. The monetary costs are truly negligible, because the only difference licensure would make would be to the consumers and patients requiring the services of a Respiratory Therapist. They would be assured that the individual providing these services has met predetermined competency standards. Finally, licensure of Respiratory Therapists is strongly supported by all major physician organizations specializing in the care and treatment of pulmonary patients.

You require this of beauticians and barbers, isn't it about time you require this from individuals that provide critical life-support services?

Thank you for your time and consideration of this testimony.

Total Home Care

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February 7, 1996

TO: **COMMITTEE ON HEALTH AND HUMAN SERVICES**

FROM: Mark Aberle, B.B.A., R.R.T., Clinical Manager, Respiratory Services, Total HomeCare/Columbia Wesley Medical Center. Respiratory Care Practitioner since 1967, involved in Respiratory Homecare since 1975.

SUBJECT: INCREASED NEED FOR **COMPETENT, PROPERLY CREDENTIALED (LICENSED)**, RESPIRATORY CARE PRACTITIONERS OUTSIDE OF THE ACUTE CARE HOSPITAL

Respiratory care is an allied health specialty performed for the assessment, treatment, management, diagnostic evaluation, and care of patients with deficiencies, abnormalities, and diseases of the cardiopulmonary system. Respiratory care practitioners, (RCPs), care for patients ranging from the premature infant whose lungs are underdeveloped to the elderly patient whose lungs are diseased. Individuals who suffer from such diseases as emphysema, bronchitis, lung cancer, sleep apnea, and cardiovascular disease; children who suffer from asthma or are afflicted with cystic fibrosis; and patients of all ages who require the use of a ventilator to breathe; they are all cared for by the respiratory care practitioner. RCPs regularly set-up, instruct, and, on an ongoing basis, care for and treat patients on a variety of oxygen systems, breathing apparatus, related equipment, and ventilators in the home. They evaluate patient's needs, survey home environments, bring together resources, make recommendations based on good medical practice, and reimbursement guidelines, administer medications, perform diagnostic procedures, and even adjust or modify systems to meet individual patient needs. They are an integral component in the complex hospital discharge planning process of high risk and ventilator dependent patients. RCPs are frequently the clinical resource for physicians in managing patients and keeping physicians informed on the status of these patients at home.

Home care services have proven to be an integral part of the health care delivery system and a cost-effective alternative to hospital stays. With the dramatic increase in managed care, and capitated reimbursement, patients are leaving the acute care setting sooner, (and sicker), going into subacute and home care environments, and this trend is increasing.

(over)

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Attm #3

The aging population, the spread of AIDS and tuberculosis, the increasing incidence of asthma, and advances in medical technology allowing technology-dependent patients to lead more productive lives outside the hospital, are increasing the need for the services of properly trained and educated respiratory care practitioners. Respiratory patients are increasingly being discharged from the hospital still requiring care, thereby increasing the demand for respiratory care services in alternate sites such as the home. These patients are presently left vulnerable to those that lack proper training, and education, and simply obtain a delivery van, and fill out the application for a Medicare Part B provider number, (which simply requires they not have a prior conviction of Medicare fraud).

Present Kansas registration only protects the title name of the Respiratory Care Practitioner. What is necessary is to protect the public through the protection of the actual practice of respiratory care with licensure. Most of our surrounding states, thirty-one at present and growing, currently require state licensure for RCPs. It would be most unfortunate if Kansas becomes a haven for poorly or non-trained practitioners that are no longer able to work or practice in their own state because of those states licensure acts.

The scope of respiratory care services, and the responsibilities of respiratory care practitioners, has developed significantly beyond what it was a few years ago, and significantly beyond the hospital setting. The Respiratory Care Practitioner is frequently the **ONLY** health care professional seeing the patient in the home. I am asking for your support in upgrading of the Respiratory Care Practitioners credential to protect the public by assuring the practice of Respiratory Care will be performed by trained, licensed RCPs. Licensed RCPs are needed to meet the ever increasing demand to care for more acutely ill patients at home as a result of our ongoing health care reform. The people of Kansas absolutely require PROPERLY EDUCATED, TRAINED and CREDENTIALED respiratory care practitioners so that the life supporting care they require is not life threatening given from the wrong hands.

(Patient examples to close)

Salina
Regional
Health
Center

February 7, 1996

Mr. Chairman
Member of the Committee:

Thank you for allowing me the opportunity to address you concerning HB 2765, regarding licensure requirements for Respiratory Care Practitioners.

In 1985, when the Respiratory Care Practice Act was first introduced, the recommendation of the Director of Health & Environment was that of licensure. The then Chairman of Public Health and Welfare very late in the process changed it to registration, which is to say a "title protection act" which would protect the title of Respiratory Care Practitioner but not the practice of the Art & Science of Respiratory Care. We are seeking a change in this level of credentialing to licensure, because we feel the person who is charged with administering therapy, medications and instructions to patients with respiratory problems; such as, asthma, bronchitis, emphysema, cystic fibrosis and pneumonia, just to name a few, should possess the knowledge and expertise to assure the effective outcomes of these interventions. The only way to assure this is to have these people competency tested which would be required by licensure. Respiratory therapists of today must complete an extensive education to understand these and many other diseases, and more importantly, how to use the very technical equipment that is needed to treat these problems. We are concerned that in the changing world of health care, and the now common practice of early release of patients from hospitals, allows a very vulnerable portion of our society to be placed in danger under the present "title protection" registration system. As the law is written now, as long as you do not call yourself a Respiratory Therapist; there is nothing legally preventing you from administering medications, or participating in patient interactions. We feel the people of Kansas need to be assured that the person who is entrusted with their respiratory health; their ability to breathe, which as we all remember from our high school biology - respiration is the basis of all life function - you must breathe to live; should have to prove he is capable of taking on this tremendous responsibility. We feel the only way to assure this is through competency testing and protecting the practice not just the title of Respiratory Care.

Please allow me to make a few points about what the licensing of Respiratory Care Practitioners does and does not accomplish:

1. **DOES NOT** allow individuals to work without supervision of qualified medical direction.

400 S. Santa Fe
and
139 N. Penn
P.O. Box 5080
Salina, KS
67402-5080
(913) 452-7000

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Attm #4

2. **DOES NOT** immediately legislate individuals out of a job who are currently working under qualified medical direction, but provides an 18 month "window" for those practitioners who need to complete competency testing. (Grand fathered, non-credentials RCP's)

3. **DOES NOT** negatively affect the health care workforce because temporary permits allow students, those with military experience, or from foreign countries with respiratory care experience to continue to practice as long as they fulfill all licensure requirements within a reasonable time.

4. **DOES NOT** increase the costs to the State as the mechanism is already in place. Revenues generated from the current Registration provides ample funding, with excess for the State General Fund.

5. **DOES NOT** prevent other licensed and formally trained health care personnel from providing respiratory care. **This is not a "turf" issue.**

6. **DOES NOT** improve billing capabilities of Respiratory Care Practitioners as RCP's cannot practice without the order of, and under the direction of a physician.

- The American College of Chest Physicians
- The American College of Allergy & Immunology
- The American Society of Anesthesiologists
- The American Thoracic Society
- National Association of Medical Directors of Respiratory Care

are all in favor of licensing Respiratory Care Practitioners. These physician groups realize the importance of protecting the practice of the Art and Science of Respiratory Care. **The Respiratory Care Council of the Kansas State Board of Healing Arts,** which is charged with carrying out the provisions of the Respiratory Care Practice Act, also endorses the need for licensure. We have also worked very closely over the past 2 years with the **Kansas State Board of Healing Arts** concerning the language of this bill and it is my understanding **they feel they will have no problem with implementation of these proposed changes, and are comfortable with the language as written.**

7. **DOES PROTECT THE HEALTH AND SAFETY OF THE PUBLIC** by ensuring that the providers of respiratory care meet standards of education and competency.

8. **DOES** prevent untrained individuals from attempting to practice the profession either in health care institutions or the patient's home. We have serious concerns about the ability of untrained individuals to operate in the area of Home Health Care.

Some have stated that if the Legislature upgrades respiratory care practitioners from Registration to Licensure they might have to consider the same for other professions. We believe that legislators have the responsibility of acting on each issue based upon the individual merit of the situation presented. Surely, the education and competency of individuals we intrust with our ability to breathe warrants as much scrutiny as those individuals the State of Kansas "license" to cut and style our hair or do our nails.

It may be difficult in todays world to believe that the member of the Respiratory Care profession in Kansas are only concerned with the protection of the health and safety of the people of our great state; well, ladies and gentlemen, that is exactly what we are concerned about, and we believe the members of the Kansas Legislature share in the responsibility for the health and safety of the citizens of Kansas.

Thank you for your time and attention.

Sincerely,

R. Russell Babb, BA, RRT
Director of Respiratory Care

DATE: February 7, 1996

TO: Representative Carlos Mayans
Committee Members

FROM: Pat Munzer, MS, RRT
Program Director/Associate Professor
Washburn University

RE: **HB 2765**

Demonstration with tank and questions.

1. Did you know that the reason why we use oxygen and this device and is to: (1) treat hypoxemia, (2) decrease work of breathing and (3) decrease cardiovascular instability?

2. Do you know how to evaluate these reasons to determine if a patient needs this type of therapy?

3. Did you also know that for every therapeutic/diagnostic procedure that we perform not only is there a good reason to use it, but there are hazards associated with them?

4. Did you know that giving to much oxygen in a premature infant may lead to blindness?

5. Did you know that giving high concentrations of oxygen to a patient with a history of respiratory disease could cause that patient to stop breathing?

6. Did you know that breathing high concentrations of oxygen could lead to damage of the lung tissue?

7. Do you know how to evaluate your patient to determine if these bad effects that I just mentioned are occurring?

8. Would you know what to do if these effects were happening with your patient?

My name is Pat Munzer and I am program director for Washburn University's Respiratory Therapy program. I am here to testify in support of HB2765.

I started in respiratory therapy in 1976. I graduated from an Associate of Science degree from Quinnipiac College in Hamden Connecticut. I've worked 8 years in the hospital setting specializing in pediatric/neonatal respiratory care and emergency room care at the University of Kansas Medical Center. I have worked the past 12 years in education. I currently serve on the Respiratory Care Council for the State Board of Healing Arts.

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attm #5

As you can see from this demonstration, we can teach most persons to perform basic respiratory care procedures, but with out adequate training they would:

1. not understand the physiological benefits and hazards associated with this procedure.
2. nor would they know how to assess, evaluate and make recommendations for appropriate therapy.

How would you feel if this was an advanced procedure like mechanical ventilation and you had someone who had no knowledge of the positive or negative effects of mechanical ventilation working with one of your family members?

Licensure is necessary to ensure the protection of public health and safety by setting a minimum education level and competency standards for persons providing respiratory care services. Education is the key to obtaining the knowledge, theory skills, and competencies in respiratory care. In order to develop this knowledge, theory and skills students in Washburn University's program must complete:

1. 77 credit hours of didactic course work.
2. approximately 150 hours of scheduled laboratory course work, plus countless hours of laboratory practice on their own.
3. over 1200 hours of clinical training in hospitals and home care settings.
4. the type of curriculum that is taught at Washburn is listed under "curriculum" at the end of this testimony.

Licensure assures that the persons providing respiratory care continually meet minimum standards of education and competency through continuing education. Major difficulties in educations are: (1) the constant changes in health care and technology and (2) being able to make the changes in our curriculum to keep pace with those health care and technology changes. Once a student graduates they must keep abreast of current health care and technological advances.

There are two classifications for Respiratory Care practitioners as defined by the may go by the Joint Review Committee for Respiratory Therapy Education.

Respiratory Therapy Technician (One year program)

The respiratory therapy technician administers general respiratory care. The knowledge and skills of the technician are acquired through formal programs of didactic, laboratory and clinical preparation. Technicians may assume clinical responsibility for specified respiratory care modalities involving the application of well defined therapeutic techniques under the supervision of a respiratory therapist.

Respiratory Therapist (Associate or Baccalaureate degree)

The respiratory therapist applies scientific knowledge and theory to practical clinical problems of respiratory care. Knowledge and skill for performing these functions are achieved through formal programs of didactic, laboratory, and clinical preparation. The respiratory therapist is qualified to assume primary responsibility for all

respiratory care modalities, including the supervision of respiratory therapy technicians. Under the supervision of a physician the respiratory therapist is able to exercise considerable independent, clinical judgement in the respiratory care of patients.

Curriculum

As outlined by the Joint Review Committee for Respiratory Therapy Education instruction should be based on a structured curriculum which clearly delineates the competencies to be developed and the methods whereby they are achieved.

The following units, modules, and/or courses of instruction are included in the program:

1. Basic Sciences
   - Biology
   - Cardiopulmonary anatomy and physiology
   - Chemistry
   - Computer science
   - Human anatomy and physiology
   - Mathematics
   - Microbiology
   - Pharmacology
   - Physics
   - Psychology

2. Clinical Sciences
   - Cardiopulmonary diseases
   - General medical and surgical specialties
   - Pathology
   - Pediatrics and perinatology

3. Respiratory Care Content Areas
   - Aerosol therapy
   - Airway management
   - Assessment of patients' cardiopulmonary status
   - Cardiopulmonary diagnostics and interpretation
   - Cardiopulmonary monitoring and interpretation
   - Cardiopulmonary rehabilitation and home care
   - Cardiopulmonary resuscitation
   - Chest physiotherapy
   - Ethics of respiratory care and medical care
   - Gas therapy
   - General patient care
   - Humidity therapy
   - Hyperinflation therapy
   - Mechanical ventilation management
   - Oxygen therapy
   - Pediatrics and perinatology

I would like to leave you with this thought: **"any profession that is life supporting can be life threatening in the wrong hands".**

Thank you for allowing me the opportunity to speak on behalf of HB 2765. I would be happy to answer any questions you may have.

My name is Don Silkey. I am here today to speak in support of HB2765 and for very personal reasons. I have emphysema and know what it is not to be able to breathe. When this has happened to me, I have been unable to speak. When I could not speak, I could not ask the person taking care of me if they knew what they were doing. I had to put my breath and my life literally in their hands. If they had not known what they were doing, I would not be here with you this afternoon. The ones taking care of me were respiratory therapists and other qualified health care professionals. However, I learned recently that under the current law, anyone could have taken care of me as long as they didn't call themselves a respiratory therapist I further understand that it wouldn't matter whether or not they had received proper training or not and knew what they were doing. As a person who receives respiratory care, that scares me to death and it should you as well.

Many Kansans, young and old alike live with the daily challenge of being able to breathe while walking or doing other daily activities. At any time, their condition can worsen and they can be in trouble with their breathing. Many Kansans are born prematurely and need the expertise of health care professionals such as respiratory therapists to help manage their care on highly technical ventilators and other sophisticated equipment. Many Kansans are hurt very badly in accidents and violent events and are taken to emergency rooms in their local hospitals. They need to have professionals such as respiratory therapists who use trained assessment and treatment techniques to help save their lives. Many Kansans have open heart surgery and other complicated surgeries every day. It is respiratory therapists who place them on life-saving ventilators and work with the doctors to be sure the patient and ventilator are working well together.Many Kansans are at home today on ventilators and other special breathing devices. They need qualified health care professionals coming into their home, not just anyone. Each of us can have something happen to our breathing at any time. I know how it feels and so do many of your constituents.I am sure all of us in this room today want to be sure that someones who know what they are doing is taking care of us and our families. With this current law, someone who has had absolutely no medical training could be that person.

When the Kansas Respiratory Care Society tells you that they are seeking a change in the current law to better protect the public, I believe they are telling you the truth. When the Kansas Respiratory Care Society tells you that there is no ulterior motive to get higher pay, I believe they are telling you the truth. The Kansas Respiratory Care Society represents qualified respiratory therapists who care about their patients. They are the ones who support people like me and other people with breathing problems when we cannot get our breath.
On behalf of the public, I urge each one of you on this Committee to better protect us in the public and vote yes for HB2765. It is the right thing to do.

Sincerely submitted,

Don Silkey

H+HS Comm
2-7-96
Attm #6

KANSAS BOARD OF HEALING ARTS

BILL GRAVES
Governor

LAWRENCE T. BUENING, JR.
Executive Director

235 S. Topeka Blvd.
Topeka, KS 66603-3068
(913) 296-7413
FAX # (913) 296-0852

M E M O R A N D U M

TO: House Health and Human Services Committee

FROM: Lawrence T. Buening, Jr.
Executive Director

DATE: February 7, 1996

RE: **HOUSE BILL NO. 2765**

Chairman Mayans and members of the committee, thank you very much for providing me the opportunity to appear before you and provide information on behalf of the State Board of Healing Arts on HB No. 2765. Because a conferee must either be a proponent or opponent of a proposed bill, I have chosen to be a proponent in submitting this information on the Board's behalf. However, I must advise at the outset and make it perfectly clear that the State Board of Healing Arts has not taken a position on this bill. While the Board may not be a proponent of the bill, no assumption should be made that the Board opposes it. Rather, the Board's position is that under the current legislative framework it is for the Legislature to determine whether this bill should be enacted.

By way of background, the 1986 Legislature adopted a bill which directed the registration of respiratory therapists by July 1, 1987. That bill was passed by the Legislature following a credentialing review conducted under K.S.A. 65-5001 et seq. (Kansas Act for Credentialing) and a recommendation by the Secretary of Health and Environment that respiratory therapists be licensed. Since the effective date of the law on July 1, 1986, the Board implemented the various rules and regulations needed to regulate respiratory therapy and has regulated that profession since that time.

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On May 28, 1993, I made a presentation to the annual meeting of the Kansas Respiratory Care Society (KRCS) in Salina. During the course of that presentation, I stated to those assembled almost exactly what I say to you today:

> "I can do respiratory therapy in the State of Kansas. What I cannot do is call myself a respiratory therapist unless I am registered by the Board of Healing Arts."

That statement as you might imagine, caused considerable consternation among many of those assembled as most did not realize that registration merely protectd the use of a designated title.

On June 16, 1993, KRCS submitted an application under the Kansas Act on Credentialing requesting that K.S.A. 65-5501 et seq. be amended to provide for licensure. I believe this was the first time a currently credentialed profession had utilized the Kansas Act on Credentialing to determine if the current level of credentialing was appropriate. A review by a technical committee under the credentialing included as one of its purposes to provide the Legislature with a thorough analysis of the KRCS application and information gathered at the technical committee meetings. A final report to the Legislature from the Secretary of Health and Environment requirement was filed December 27, 1993 and did not recommend a change in the credentialing level.

This past summer and fall the Special Committee on Public Health and Welfare undertook the study of Proposal No. 55 involving the credentialing process for health care providers. A representative of KRCS appeared before that committee advocating licensure of the respiratory therapy profession. The Special Committee recommended that groups that presented recommendations work with legislative staff to develop such recommendations in bill form for presentation to the 1996 Legislature. Thus, HB No. 2765 was born and is before you today.

At the meeting of the State Board of Healing Arts held December 8, 1995, representatives of KRCS appeared and solicited the Board's support of the proposed draft of HB No. 2765. Previously, the Respiratory Therapist Council, created and established under K.S.A. 65-5504, had reviewed the proposed draft and recommended support.

Since I made my comments to KRCS in May, 1993, that organization has worked closely with Board staff to include language within what is now HB No. 2765 to ensure that its provisions could be most efficiently administered by the Board and its staff. The Board believes that the current language of HB No. 2765 is such that the Board may administer this bill with little or no impact upon Board revenue, expenditures and staff duties. From a substantive standpoint, however, the bill may not be perfect and opponents and this committee may wish to make certain amendments.

In conclusion, HB No. 2765 is the product of the work of a professional association which has made every effort to work within the existing statutory framework to change the level of credentialing of respiratory therapists. A great deal of information exists to assist the Legislature in making a decision on this bill. However, without feeling any remorse that the Board has abdicated its role, the Board submits that under the current statutory scheme, whether HB No. 2765 and the licensure of respiratory therapy profession falls squarely on the shoulders of this Legislature. What is in the best interest of the citizens of our state - whether that be costs attributable to licensure of respiratory therapists, costs involved in licensure, availability and accessibility of respiratory care services and the impact of other health care professions - is at present, a decision which has been entrusted to you as the elected representatives of the citizens of the State of Kansas.

I would be happy to respond to any questions you might have at the appropriate time. Again, thank you for the opportunity to appear before you.

bj

COMMITTEE MEMBERS:

My name is Lavonne Frizell, I live in Emporia Kansas.

I have a lung disease called Bronchiectasis. With this disease there is a destruction to the muscle and elastic tissue of the bronchial wall caused by the formation of small pockets. These pockets then become infected with germs that gather and stay there. When infections become worse, the situation can become very serious.

Over the past 35 years the progression of my disease has affected every day of my life. Anyone who has never had trouble breathing cannot understand how day to day tasks are centered around my breathing. Much of my quality of life depends on the daily respiratory treatments I must take to maintain clearance of mucous from my airways.

Over the last 25 years I have been hospitalized at least twice a year due to my condition and recurring infections. When I am sick and we have done everything we can do at home, my husband takes me to the hospital and lets the hospital and Respiratory Therapists take over, his worries are over and he knows that I am on my way to recovery. The Respiratory Therapist's knowledge of the pulmonary system, correct assessment of my condition and aggressive therapy helps me make it through my crisis. I am aware of their continued interest in my well being not only with their aggressive treatments but with their continuing education and follow-up. They make sure I understand the seriousness of my disease through continued education through a Pulmonary Rehabilitation class which focuses on how to maintain with proper diet, exercise, recognition of warning signals, and much more.

Respiratory Therapists are pulmonary specialists and there expertise in assessment and treatment of my disease and I believe has helped me to better manage my disease and maintain my independence. In my experience they are something more. Their caring attitude and concern in my well being is a positive influence in my recovery and day to day life.

H+HS Comm
2-7-96
attm #8

Just knowing someone cares and understands my condition makes it easier to cope with my disease.

When I found out that anyone could perform Respiratory Therapy, I was SHOCKED! How can anyone without the knowledge and background that Respiratory Therapists have be qualified to treat patients like myself even the more seriously ill. Would this not cause more harm than good? When I am sick, I want to have the very best care available and I believe a qualified professional such as Respiratory Therapists should perform my care. Licensed Respiratory Therapists would ensure that I receive qualified care in the hospital but also opens the door for me to receive that care at home. With Health Care Reform this becomes more apparent and is also important to my maintaining a healthier lifestyle outside of the hospital.

Most people take breathing for granted, I don't! You must understand the role Respiratory Therapists have in helping people like myself. They hold life and breath in their hands, their experience, knowledge, and understanding are an important part of health care team and my well being. It is time that we ensure the best care available to all those in need of Respiratory Care by making all Respiratory Therapists licensed in the State of Kansas.

Thank you for your time and appreciate your ability to breathe well.

8500 Marty
Overland Park, KS 66212
February 6, 1996

To Whom it May Concern,

Picture yourself in our place (although I hope it never happens to you): Our son had just begun his sophomore year at K.U., and was thrilled to have just earned a place on the cross country varsity team. At 19 years of age, he was in prime physical condition when, on a conditioning work-out in Lawrence, a car sped through a red light on 23rd Street. He was thrown through the intersection onto the windshield of an oncoming car and flipped over that car. After a helicopter trip to Kansas City and a night in surgery at KUMC to save his left leg, we faced a grueling 11 days when he was entirely dependent upon on mechanical ventilation to maintain his thin thread toward recovery. During that 11 days, the physicians continually reminded us things could change rapidly, for the good or the bad. One of the bleakest moments came when I asked, "Can we just say he's holding his own?" and the reply was, "That would be premature."

Our son's life was in the hands of the respiratory team of physicians and respiratory therapists for what seemed like 11 lifetimes rather than 11 days. Monitoring and intervention was a 24 hour a day tedious set of activities - with numerous procedures and constant attention. Can you imagine anything less than the most stringent form of credentialing for those persons on the medical team who on a day-to-day basis monitor a patient's life-breath. Whether a respiratory therapist is practicing in the ICU of KUMC, or in a small rural setting, the consumer in Kansas needs the assurance that the service provider is unquestionably prepared educationally and has met the professional criteria outlined by the profession. I strongly urge you to move this profession from credentialing at the registration level to licensure.

We are fortunate. Jeremy is now 22 and is again a full time student at K.U. There is never a day that I take this for granted. If you or your family members need this type of intensive care in the future, I hope you will feel even more confident if you have been able to make credentialing more secure through licensure.

Sincerely,
Linda McClain
Linda McClain, PhD

H+HS Comm
2-7-96
Attm#9

The University of Kansas Medical Center

School of Medicine
Department of Anesthesiology

February 6, 1996

Chairman
Committee of Health and Human Services
State of Kansas

Dear Mr. Chairman:

I support raising the level of credentialling from registration to licensure for Respiratory Care practitioners. This is in keeping with the national trend of licensure for Respiratory Care practitioners in 37 of the 50 states, which has occurred over the last ten years.

Sincerely,

Anthony Kovac MD

Anthony Kovac, MD
Associate Professor
Department of Anesthesiology

AK/iet

9-2

3901 Rainbow Boulevard, Kansas City, Kansas 66160-7415 • (913) 588-6670 • FAX (913) 588-3365

February 7, 1996

Dear Members of the House Health & Human Services Committee:

I am writing to you in support of HB 2765. I am a practicing neonatologist and agree with the need of licensure for respiratory therapists. I was very surprised to learn that they were not already licensed by the State of Kansas. I am very concerned that under the current law, anyone can apply respiratory care techniques if they do not identify themselves as a respiratory therapist.

My patients deserve to have highly trained certified professionals taking care of them. I want to be sure that the person to which I'm delegating care understands what they are doing. Certification of respiratory care specialists and licensure helps ensure that only those people proven to have a good understanding of respiratory care are responsible for patient care.

With the strongest of conviction, I urge you to vote yes to HB 2765. As members of the House Health and Human Services Committee, you are partners in ensuring that Kansans receive quality, competent health care. Right the wrong and help to better protect my patients.

Thank you for your consideration.

Respectfully submitted,

Robert L. Sidlinger M.D.

Robert L. Sidlinger, M.D.
Neonatologist

/d

H+HS Comm
2-7-96
Attm #10

State Office

4300 Drury Ln.
Topeka, KS 66604-2419
phone: (913) 272-9290
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Branch Offices

13830 Santa Fe Trail Dr.
Suite 107
Lenexa, KS 66215
phone: (913) 894-6767

1107 SW Parklane
Parklane Office Park, Suite 224
Wichita, KS 67218
phone: (316) 687-3888

When You Can't Breathe, Nothing Else Matters®

AMERICAN LUNG ASSOCIATION® of Kansas

October 11, 1994

To All Kansas Legislators:

The American Lung Association of Kansas urges you to include licensure of the professional respiratory therapist in all plans for health care reform in our state.

The American Lung Association of Kansas is the oldest voluntary health organization in the state. Its mission is the conquest of lung disease and the promotion of lung health.

The role of the professional respiratory therapist is vital to our efforts of ensuring adequate patient care to the people of Kansas. For example, at some point chronic obstructive disease patients need oxygen at home. This is provided by a respiratory therapist practitioner. Therapy provided at home benefits the patient by allowing that person to stay in the home environment. It is also more cost effective than alternative care options. Families can also care for patients on ventilators in the home. To do this, they need extensive training from a professional respiratory therapist.

Home care is a critical component of the future of health care. Assuring professional standards and adequate training of home care professionals is a necessary prerequisite to delivering quality home care.

The American Lung Association of Kansas urges you to support the American Respiratory Care Practitioner in the health care reform arena.

I appreciate your attention to this matter, because WHEN YOU CAN'T BREATHE NOTHING ELSE MATTERS.

Sincerely,

Judy Keller
Executive Director

H+HS Comm
2-7-96
Attm #11

State of Kansas

Bill Graves *Governor*

Department of Health and Environment

James J. O'Connell, Secretary

TESTIMONY PRESENTED TO

THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES

BY

THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

HOUSE BILL 2765

In 1983 applications for credentialing of health care personnel in Kansas were the responsibility of the Statewide Health Coordinating Council (SHCC). Under its jurisdiction, an application for the licensure of the practice of respiratory care in Kansas was first submitted January 11, 1983. During the subsequent months, a technical review committee was convened by the SHCC and evidence was gathered through hearings and applicant-supplied materials and testimony in accordance with the criteria recognized at that time. The result of which was a recommendation for denial of credentialing by the technical committee and the SHCC. In 1985, the legislature passed a registration law for the respiratory therapists in Kansas.

The Kansas Respiratory Care Society applied for a change in the level of credentialing in 1993. Once again, a technical committee was formed and it conducted its responsibilities in accordance with the new Credentialing Act and its amendments. The results of the review indicated that the applicant group did not meet the criteria necessary to be recommended for licensure.

The Credentialing Act has been the topic of much consideration by this and previous legislatures. This bill contains significant language which is precisely why the Credentialing Act and its provisions are an important tool for legislative decision-making. The applicant group desires an elevated level of credentialing which has twice been proven under legislatively mandated activities to be unnecessary.

H+HS Comm
2-7-96
Attm #12

Bureau of Adult and Child Care, 900 SW Jackson, Suite 1001
Landon State Office Building, Topeka, Kansas 66612-1290
(913) 296-1240
FAX: (913) 296-1266

With all due respect to the respiratory care professionals, the department opposes this bill due to its negative impact on the credentialing process in Kansas.

Presented by: Lesa Bray
Director of Health Occupations Credentialing
Bureau of Adult and Child Care
Division of Health
February 7, 1996

Kansas State Board of Nursing

Landon State Office Building
900 S.W. Jackson, Rm. 551
Topeka, Kansas 66612-1230
913-296-4929
FAX 913-296-3929

Patsy L. Johnson, R.N., M.N.
Executive Administrator
913-296-5752

To: The Honorable Representative Carlos Mayans, Chairman
and Members of the Health and Human Services

From: Patsy L. Johnson, M.N., R.N., A.R.N.P.
Executive Administrator
Kansas State Board of Nursing

Date: February 5, 1996

Re: HB 2765

Thank you for allowing me to testify on HB 2765 for the Board of Nursing. The Board is concerned about some language on page 2 and offers a balloon.

Respiratory therapists currently administer medications as part of respiratory therapy procedures; however, the Board of Nursing believes that the phrase "pharmacological agents affecting the cardiopulmonary system" (lines 14-15) is much too broad and should be deleted. There is no qualifier on the phrase and could include a large number of medications given by various routes, including orally or intravenously. Administration of medications should be limited to respiratory routes for respiratory procedures.

The Board of Nursing in not opposed to respiratory therapists collecting blood specimens, but the broad allowance of insertion indwelling arterial and venous catheters could overlap the practice of nursing. Again, there is no limiting language as to the practice. It is suggested deletion of the language in line 18 and tying it to collection of blood specimens in line 20.

Over many years, the public has probably become familiar with the term "respiratory therapist". It is believed that the term "respiratory care practitioner" may add to the confusion of who exactly are "practitioners" and what they do. The term "practitioner" could be added to the multitude of health care professionals who practice in their specialty areas. The Board of Nursing is opposed to designating another group of practitioners (line 26).

While not opposed to respiratory therapists becoming licensed, the Board of Nursing hopes you will consider the above suggestions to HB 2765.

Thank you.

H+HS Comm
2-7-96
Attm#13

Janette Pucci, R.N., M.S.N.
Education Specialist
296-3782

Patricia McKillip, R.N., Ph.D.
Education Specialist
296-3782

Diane Glynn, R.N., J.D.
Practice Specialist
296-4325

Mark S. Braun, J.D.
Assistant Attorney General
Disciplinary Counsel
296-4325

~~ing or referral or respiratory care protocols, or changes in treatment regimen, pursuant to a prescription by a physician on the initiation of emergency procedures.~~

~~(4)~~ *(3)* The diagnostic and therapeutic use of any of the following, in accordance with the prescription of a physician: Administration of medical gases, exclusive of general anesthesia; aerosols; humidification; environmental control systems; ~~and baromedical therapy; pharmacologic~~ *transcription and implementation of written or verbal orders of a physician pertaining to the practice of respiratory care; the implementation of respiratory care protocols as defined by the health care institution, changes in treatment pursuant to the written or verbal orders of a physician; or the initiation of emergency procedures under the regulations of the board or as otherwise permitted in this act. The administration of pharmacological* agents related to respiratory care procedures ~~(or affecting the cardiopulmonary system;)~~ mechanical ~~or~~, physiological, ventilatory *or circulatory* support; bronchopulmonary hygiene; cardiopulmonary resuscitation; maintenance of the natural airways; insertion ~~without cutting tissues (of indwelling arterial or venous catheters)~~ and maintenance of artificial airways *without cutting tissues*; diagnostic and testing techniques required for implementation of respiratory care protocols; collection of specimens of blood; collection of specimens from the respiratory tract; analysis of blood gases ~~and~~, respiratory secretions *and electrolytes; and collection and analysis of electrophysiological data.*

~~(5) The transcription and implementation of the written and verbal orders of a physician pertaining to the practice of respiratory therapy.~~

(c) "Respiratory ~~therapist (care practitioner")~~ means a person who is ~~registered~~ *licensed* to practice respiratory ~~therapy~~ *care* as defined in this act.

(d) "Person" means any individual, partnership, unincorporated organization or corporation.

(e) "Physician" means a person licensed *by the board* to practice medicine and surgery.

(f) "Qualified medical director" means the medical director of any inpatient or outpatient respiratory care service, department or home care agency. The medical director shall be a physician who has special interest and knowledge in the diagnosis and treatment of respiratory problems. The medical director shall be qualified by special training or experience, or both, in the management of acute and chronic respiratory disorders. Such physician shall be responsible for the quality, safety and appropriateness of the respiratory services provided, and require that respiratory care be ordered by a physician who has medical responsibility for the patient. The medical director shall be readily accessible to a respiratory care practitioner and shall assure the practitioner's competency.

REMOVE "or affecting the cardiopulmonary system"

REMOVE "of indwelling arterial or venous catheters"

ADD "insertion of indwelling arterial or venous catheters for collection of blood specimens;"

REMOVE "care practitioner" and ADD "therapist"

13-2

KANSAS HOSPITAL ASSOCIATION

Memorandum

Donald A. Wilson
President

TO: House Committee on Health and Human Services
FROM: Kansas Hospital Association
RE: House Bill 2765
DATE: February 7, 1996

The Kansas Hospital Association appreciates the opportunity to comment regarding the provisions of House Bill 2765, which would grant licensure status to "respiratory care practitioners". This is not a new issue to come before state policymakers. In 1984 the Kansas Respiratory Care Society submitted an application to the Kansas Department of Health and Environment requesting they be licensed by the state. Subsequently the 1985 Kansas legislature passed a registration law. Then in 1993, the same group submitted an application to KDHE requesting licensure again. After consideration, the Secretary of that agency found that the current registration law is the appropriate level of credentialing and recommended that no legislative action be taken. We are in agreement with the Secretary's recommendation.

Although Kansas law makes it clear the recommendation of the Secretary is not binding on the legislature, we do think the KDHE report is entitled to great weight during legislative discussions. This is so because our current credentialing law was carefully crafted by the legislature to outline the questions relevant to these kinds of requests. Such questions are as appropriate in the legislative process as they are during consideration by the Secretary of KDHE. For that reason we will focus our comments on several of the statutory criteria.

I. Harm would not be prevented. To be successful in the credentialing process the proponents of licensure must show that "the unregulated practice of the profession can harm or endanger the health, safety or welfare of the public and the potential for such harm is recognizable and not remote." We think there has been no showing to meet this requirement. For example, when the Kansas Department of Health and Environment turned down this group's application in 1993, it found that licensure would not prevent harm because the cases of harm cited by the group involved health care providers who would not be restricted from providing services even with a licensure law. It appears this bill does not attempt to change that situation.

H+HS Comm
2-7-96
Attm #14

1263 Topeka Avenue • P.O. Box 2308 • Topeka, Kansas 66601 • (913) 233-7436 • FAX (913) 233-6955

In addition, we feel strongly that current Kansas law clearly evidences a strict quality standard to be followed by hospitals. For example, the governing body of the hospital is made responsible for the quality of care in the institution. Other Kansas laws specifically require each hospital to have a risk management program to recognize and resolve quality problems.

II. Costs will increase. The law also requires that a group seeking licensure show that effect on health care costs will be minimal. We think the effect here could be substantial, especially for small and rural Kansas facilities.

The advent of managed care has forced hospitals to develop care delivery strategies that allow them to increase the utility of their existing work force. By placing the organization's focus upon the patient, teams of cross-trained staff can assume broader responsibility for the care and treatment of patients with similar diagnoses. The proposed licensure law would inhibit the development of multi-skilled practitioners due to the fact that personnel not licensed as respiratory care practitioners would be prohibited from performing respiratory care functions. As such, the opportunity to reduce health care costs through enhanced productivity would be lost.

We also anticipate that licensure requirements will increase the cost of staffing respiratory service departments in health care organizations. In addition to the requirement that only licensed personnel can perform certain functions, such personnel can only practice under a "qualified medical director", defined as a physician "qualified by special training or experience in the management of acute and chronic respiratory disorders," who has "special interest and knowledge in the diagnosis and treatment of respiratory problems." Finding such personnel who fit these requirements would be difficult and costly.

III. Other health care personnel will be substantially affected. The law requires a showing that the effects of licensing the occupation on the scope of practice of credentialed health care personnel is minimal. HB 2765 states that nothing is intended to limit the practices of other health care providers. It also, however, states that it will be illegal for any person not licensed to practice the act of respiratory care. Without question, this will substantially impact the scopes of practice of other providers. For example, since the proposal includes cardiopulmonary resuscitation with the definition of respiratory care, how is another provider, or an employing hospital for that matter, to know when the performance of CPR falls within the acts prohibited by HB 2765. Because of the broad scope of practice created by HB 2765, this type of confusion could occur frequently.

IV. Licensure is not the least regulatory means available. Kansas statutes state a preference for adopting the least regulatory means of assuring protection of the public. In otherwords any group asking the legislature to protect its scope of practice through licensure must show that no other less regulatory alternative is available. Respiratory care practitioners were not able to show this in 1984 or in 1993. The same is true in 1996

When the legislature passed the current credentialing law it stated that any group wanting to be credentialed has the burden of proving by clear and convincing evidence that such action is appropriate. This is not an easy burden to meet, but it was included because the Legislature felt licensure is such a significant state action there should essentially be no doubt about whether it is appropriate. Because we think there are still many questions about the effect of this legislation, we ask that House Bill 2765 not be passed.

Thank you for your consideration of our comments.