

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 15, 1996 in Room 423-S of the State Capitol.

All members were present except: Representative Merritt

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

Conferees appearing before the committee:

Shelby Smith, Lobbyist for Kansas Podiatric Medical Association
Donald Mahrle, Podiatrist
Adam A. Richardson, Podiatrist
Phyllis Ragley, Kansas Podiatric Medical Association
Lawrence T. Buening, Jr., Kansas Board of Healing Arts
Jerry Slaughter, Kansas Medical Society
Harold E. Riehm, Kansas Association of Osteopathic Medicine

Others attending: See Guest List: Attachment 1

The minutes of February 12 and February 13, 1996 were approved.

Chairperson Mayans opened the meeting stating handouts have been distributed to the committee members concerning the "criteria" questions proposed to be used in the process of reviewing "scope of practice" changes (See Attachment 2). Chairperson Mayans asked the members to review the questions and requested input on any changes.

The hearing on **HB 2756** was opened.

HB 2756 - Scope of practice of podiatry

The following proponents presented testimony supporting **HB 2756**:

Shelby Smith, Lobbyist for Kansas Podiatric Medical Association (see Attachment 3),
Dr. Donald Mahrle, podiatrist, Topeka, KS (see Attachment 4),
Dr. Adam Richardson, podiatrist, Hutchinson, KS (see Attachment 5),
Dr. Phyllis Ragley, President of the Kansas Podiatric Medical Association (see Attachment 6),
Larry Buening, Kansas Board of Healing Arts (see Attachment 7).

The hearing was opened for questions to the proponents.

Questions were asked about the education requirements, the number of podiatry schools, and the residency training. The type of surgical procedures performed were discussed by Dr. Richardson. Dr. Ragley answered questions in regards to amputations. Discussion followed regarding the curriculum, noting that the basic science courses are the same as in osteopathic medicine.

Ms. Correll questioned the requirement of surgical and clinical training and whether there are any podiatrists in the state of Kansas who have not had the training. Dr. Mahrle noted the law requires a 1 year hospital based residency program and that all podiatrists have had the training but some are not interested in surgery. When asked if the law requires surgical procedures to be performed in hospitals, Dr. Mahrle replied no.

The Board of Healing Arts' position supports the proposed changes of the bill by deleting the words "or toes," but has taken no position on the issue of podiatric medicine surgery or surgery of the human foot .

The hearing was opened for the opponents to present their testimony.

Jerry Slaughter, Kansas Medical Society, noted while not opposing all issues in the bill, attempts to resolve the issues with the podiatrists have failed (see Attachment 8).

Harold Riehm, Kansas Association of Osteopathic Medicine, stated while supporting the expansion of practice to remove the human toe but not amputation of the foot, testified in opposition of **HB 2756** (see Attachment 9).

The hearing was opened for questions to the opponents.

Discussion about the difference between the titles of physician and podiatrist followed. Also asked was why podiatrists in the yellow pages are listed under the physician title. Jerry Slaughter stated the provision in the Healing Arts Act refers to the term "physician" as those licensed and regulated by the state.

The hearing was closed on **HB 2756**.

HB 2423 - Alcohol and drug screening program for welfare recipients

Chairperson Mayans directed attention to the balloon amendments on **HB 2423**. The balloon amendment was drafted by Representative Benlon and Connie Hubbell, Commissioner of Income Maintenance, SRS (See Attachment 10). On motion of Representative Morrison, seconded by Representative Haley, the committee voted to adopt the balloon amendment.

Following a lengthy discussion, Representative Haley motioned to strike the word "alcohol" from HB 2423. The motion was seconded by Representative Geringer. The motion failed.

Discussion followed concerning confidentiality and the removal of cash assistance. On motion of Representative Landwehr, seconded by Representative Wells, the committee voted to pass **HB 2423** as amended. Representative O'Connor will carry the bill.

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

Next meeting is scheduled for February 19 , 1996.

House Health & Human Services COMMITTEE GUEST LIST

DATE February 15, 1996

NAME	REPRESENTING
JERRY SWANWICK	KNS
Rich Guthrie	Health Midwest
GARRY Cowan	NONE - OBSERVER.
R. Badbury DPM.	KPMA
Jerry D. Highland	none - observer
Michelle Peterson	Peterson Public Affairs
Joe Furjanic	KCA
Greg Beck	KDHE
Bob Williams	Ks. Podiatrists Assoc
Adam Richardson, DPM	KPMA
Mingue Brumder	None - observer
Larry Robis	Ks Capt ASSN
Weg Henson	Ks Medical Society
D.A. MATRICE	IC. Podiatric Med. Assoc.
DA Nafey	KPMA
Smith	KPMA
Andrew O'Donovan	SAS.
Harold KEMM	KADM
Carole Byrne	KDACA / The Alliance of A/D Serv

H+HSComm
2-15-96
Outm # 1

House Health & Human Services COMMITTEE GUEST LIST

DATE February 15, 1996

NAME	REPRESENTING
Sarah Jennings	intern
Lisa Benton	Representative
LARRY BUENING	BD OF HEALING ARTS
Amy Campbell	KS State Ophthalmological Society

Health Professions Lobbyist Meeting on H.B. 2771-Criteria

On Tuesday, February 13, a meeting was held which included health professions lobbyists and other representatives. The expressed purpose of the meeting was to come to consensus on the "criteria" that would be used in the process of reviewing "scope of practice" changes. The list below of seven items is what was agreed upon by consensus of those in attendance. Several issues arose during the discussion.

The group agreed that these criteria would be used for "scope of practice changes". The criteria are written in these terms. The **question remains** regarding what health occupations seeking "level of credentialing" changes will be required to do? Most have already been through the initial credentialing process once.

There was **not consensus** by the group on the "mechanics" of the review, ie "scope advisory committee, impact report, etc."

Consensus Criteria

H.B. 2771--New Section 6

- (1) Has there been a change in the education and training of the applicant group which supports expansion of the scope of practice? Is the applicant group in practice adequately prepared through education and training to safely perform the services sought?
- (2) Provide any AG's opinion or court proceeding that is relevant to the scope of practice change.
- (3) How would the proposed change in scope of practice affect the cost, quality, availability or access to the service or technology;
- (4) Have there been advancements in technology or practice which the applicant seeks to utilize which is prohibited or in question? Is the technology or services the applicant wishes to provide authorized under the applicant's current scope of practice?
- (5) Would the desired expansion of scope of practice result in a duplication of services or increased competition and what are the disadvantages and advantages?
- (6) How would the proposed change in scope of practice affect the public health, safety and welfare?
- (7) What is the scope of practice and level of credentialing of the applicant group in other states?

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2-15-96
Attm #2

TESTIMONY

House Bill No. 2756
House Health and Human Services Committee
February 15, 1996

HB 2756 is a clarification and updating of the Podiatry Act:

- Clarification** Podiatrists are physicians and surgeons who prescribe medicine, and perform foot surgeries (KSA 74-2801, 1949 and three Attorney General Opinions - March 18, 1959, AGO No. 217 - 1980, and AGO No. 148 - 1994).
- Update** Remove the horse and buggy 1927 statutory prohibition on amputation of toes.

A letter from orthopedic surgeon, Gary D. Boston, M.D. P.A., Leavenworth, Kansas, provides a good executive summary of the issue before you. It reads:

"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."

H & HS Comm
2.15.96
Att # 3

132 South Fountain
Wichita, Kansas 67218
316-684-1371

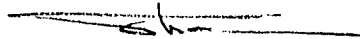
820 Quincy, Suite 310
Topeka, Kansas 66612
913-235-9034
FAX 913-235-8676

Testimony
February 15, 1996
Page 2

Before introducing conferees with expert-professional testimony, I would like to give a layman's overview of HB 2756:

It is not a complex or technical subject;
It is in no way detrimental to the public health, safety, and welfare;
It enhances the availability and access to this professional procedure;
and without question, there has been significant changes in the
education and training of podiatrists since 1927 to support this
legislation.

Introduction of Conferees:



Shelby Smith, Lobbyist
Kansas Podiatric Medical Association

February 15, 1996

Mr. 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.

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February 15, 1996

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.

Education: Long, arduous, and continuing

A doctor of podiatric medicine must navigate a rigorous course of study, training and licensing comparable to - and in some cases exceeding - that of other medical specialties.

A doctor of podiatric medicine is not a generalist. He or she is not an ophthalmologist to the eyes or a podiatrist who has undergone a lengthy study to become uniquely well qualified to treat a specific part of the body.

A podiatric physician successfully navigates a rigorous course of study, training and licensing comparable to - and in some cases exceeding - that of other medical specialties.

Minimum education	MD	DPM
Premedical education minimum - three years	Yes	Yes
Medical school - minimum of four years	Yes	Yes
Minimum professional school course hours	4,000	4,000
Postgraduate training of at least one year	Yes	Yes

After premedical college studies, he or she must complete more than 4,000 hours of studies at a fully accredited college of podiatric medicine. In addition, the podiatrist - unlike the dentist - must complete one year of postgraduate residency training in a general acute care facility.

Finally, the doctor of podiatric medicine must pass a national board examination and the California licensing exam.

Some podiatric physicians elect to take two or more years of residency training. Many take additional steps to be certified in such specialties as foot and ankle surgery or children's foot disorders.

To begin the quest, a budding DPM must pass the Medical College Admission Test and compete for a place in an accredited college of podiatric medicine. These are stern requirements. In a recent year, fewer than one-quarter of all applicants were accepted by the California College of Podiatric Medicine.

Continuing education in approved programs is required to maintain state licensing.

Yes, treating the disorders and diseases of the foot requires years of specialized education and training.

The doctor of podiatric medicine earns the title as the specialist for medical care for the feet.

Minimum curriculum	MD	DPM
Anatomy	Yes	Yes
Anesthesia	Yes	Yes
Bacteriology	Yes	Yes
Biochemistry	Yes	Yes
Child Abuse Detection & Treatment	Yes	Yes
Biomechanics/Foot Orthopedics	No	Yes
Dermatology	Yes	Yes
Didactic Podiatry	No	Yes
Geriatric Medicine	Yes	Yes
Human Sexuality	Yes	No
Hygiene	Yes	Yes
Immunology	Yes	Yes
Medicine	Yes	Yes
Neurology	Yes	Yes
Obstetrics & Gynecology	Yes	No
Orthopedic Surgery	Yes	Yes
Ophthalmology	Yes	No
Otolaryngology	Yes	No
Pathology	Yes	Yes
Pharmacology	Yes	Yes
Physical Medicine	Yes	Yes
Physical & Laboratory Diagnosis	Yes	Yes
Physical Therapy	No	Yes
Physiology	Yes	Yes
Preventive Medicine	Yes	Yes
Podiatric Medicine	No	Yes
Podiatric Surgery	No	Yes
Psychiatry	Yes	Yes
Radiology	Yes	Yes
Shoe Therapy	No	Yes
Syphilology	Yes	Yes
Surgery	Yes	Yes
Therapeutics	Yes	Yes
Tropical Medicine	Yes	No
Urology	Yes	No

Sources for tables: 1. Medical Board of California. *Laws Relating to the Practice of Physicians and Surgeons, Podiatrists, et al.* Article 4, Sections 2080-2099; Article 22, Sections 2481-2484. 2. California College of Podiatric Medicine, San Francisco.

Kansas State House of Representatives
House Health and Human Services Committee

Testimony of Adam A. Richardson, D.P.M.

Committee Members:

My name is Dr. Adam Richardson. I am a 1992 graduate of the College of Podiatric Medicine and Surgery in Des Moines, IA. In May, 1994, I graduated from a two year podiatric surgical residency in La Crosse, WI. During this residency, I performed 11 months of medical rotations including internal medicine, infectious disease, orthopedics, emergency medicine and rheumatology (just to name a few). Throughout these rotations, I performed the exact same duties and carried the exact same responsibilities as the rotational, transitional, and surgical residents within the Gundersen Clinic/Lutheran Hospital system. The remaining 13 months of the residency were spent performing, in excess of, 500 podiatric surgical procedures. These often included digital and or partial metatarsal amputations.

I am currently practicing at the Hutchinson Clinic, a 45 physician multispecialty group in Hutchinson, KS. Though I had serious reservations about practicing in a state with such limited statutes, the merits of Kansas life prevailed in my decision process. This decision has not been without regrets. One of my first patients was a referral from an internist within the clinic. The patient had had a nonhealing ulcer due to an excessively long, deformed second toe. The most rapid and safest route to recovery for the patient was to have the end of the toe amputated. By law, I was not allowed to perform this procedure. Instead, the patient had to wait an additional 1-2 months to see the orthopedic surgeon and then wait the additional time for surgery. My next task was to explain to the clinic's internist why, despite being the clinic's "foot surgeon", I was unable to provide prompt complete service to this patient. Despite set-backs like this, I still have full support from the clinic. I have included a letter outlining this support with your informational packet.

I know that my situation is not unique. While taking the state licensure examination, I talked with six additional podiatrists - each residency trained in surgery. One of the gentlemen was practicing in Texas and wanted to relocate to Kansas to be nearer to his family. He readily admitted that he most likely would not relocate to Kansas due to the limited scope of practice, as well as the "Allied health professional" classification. Based upon this testimony and your knowledge of the issues, I respectfully request that the committee vote favorably on House Bill No. 2756. Thank you for your time.

enclosure

H+HS Comm
2-15-96
Attm #5

 HUTCHINSON CLINIC, P.A.

February 17, 1995

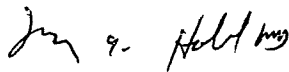
Senate Committee on Health and Welfare
Kansas State Senate
State Capitol Building
300 SW 10th Avenue
Topeka, KS 66612-1504

Ladies and Gentlemen of the Committee:

The Hutchinson Clinic, P.A. is a 45 physician, multispecialty clinic located in Hutchinson, KS. Since August 1, 1994, we have employed Adam A. Richardson, D.P.M., as a podiatrist and podiatric surgeon. Dr. Richardson was selected for the Hutchinson Clinic due to his education and his extensive surgical residency training. During his tenure with the clinic, he has adequately demonstrated the knowledge and abilities of a limited licensed physician - managing the podiatric medical and surgical needs of the clinic's population.

We do not presume to know all of the ramifications of Senate Bill Number 55; however, the Hutchinson Clinic, wholeheartedly, supports the continued efforts of Dr. Adam Richardson; and, we firmly believe that his training, knowledge and abilities have earned him the right to be deemed a "physician".

Sincerely,



Murray Holcomb, M.D.
Hutchinson Clinic, President

c: Adam Richardson, D.P.M.



February 15, 1996

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EXECUTIVE SECRETARY

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

Dear Chairman Mayans and Committee Members:

My name is Phyllis Ragley. I am the President of the Kansas Podiatric Medical Association and have practiced podiatric medicine and surgery in Lawrence since 1980. I am Vice-President of the American Academy of Podiatric Sports Medicine and have served on a select committee of our National Board of Examiners. I have been an editor of a special issue of the Journal of the American Podiatric Medical Association concerning medical-legal matters. 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), in House Bill 2756 before you.

An impetus for modifying KSA 65-2002(b) is that the original podiatry act was written in 1927. Over the last 69 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. Unfortunately, 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.

Modifying KSA 65-2002 (b) to define podiatrists as physicians and surgeons of the human foot not only follows federal and state legal precedent, but also Kansas history, as well.

In 1949, the Kansas Legislature authorized 74-2801, as noted in 72-1-9, which stated that "A podiatrist shall be defined as a physician of the foot." Today, we seek clarification that our current practice act reflect this 47 year old legislative precedent that we are, in fact, the physician and surgeon of the human foot.

Currently, at least 32 states define podiatrists as physicians, including all of our contiguous states, with others pending.

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

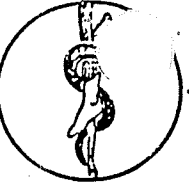
KAR 28-34 1 a (u) defines a physician as a person licensed in Kansas to practice medicine and surgery.

In Kansas a physician is defined as one who practices medicine and surgery. To practice medicine and surgery in Kansas, as defined by KSA 65-2869, one must have the independent legal authority to operate and prescribe medicine. Only medical doctors, doctors of osteopathy, doctors of podiatric medicine, and doctors of dental science, satisfy this essential, statutory criteria.

Handwritten note: H & H S Comm
2-15-96
Attm # 6

KPMA

Executive Office:
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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 stated that the term physician included podiatrists 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.

The totality of all these legal facts and opinions substantiates the requested modification of KSA 65-2002(b), to read that a podiatrist is a physician and surgeon of the human foot.

From a professional viewpoint, we request the modification of KSA 65-2002(b) to more accurately reflect the training and skills of today's podiatric physician and surgeon, by providing for digital amputations. In all but 13 states, or 75% of all states, podiatrists can perform digital amputations. With the modification of KSA 65-2002 (b), hospitals and surgi-centers can then provide the appropriate credentialing forum for podiatric surgeons requesting to perform amputations.

We would like 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 subsequently, found that podiatric surgeons performed 80% of those particular operations in Kansas.

In conclusion, the Kansas Podiatric Medical Association has been addressing a number of podiatric medical and surgical practice issues since 1990. Upon the recommendations of a former KDHE Secretary, Kansas Attorney General, and Federal Trade Commission attorneys, we are pursuing this legislative correction of these collective matters.

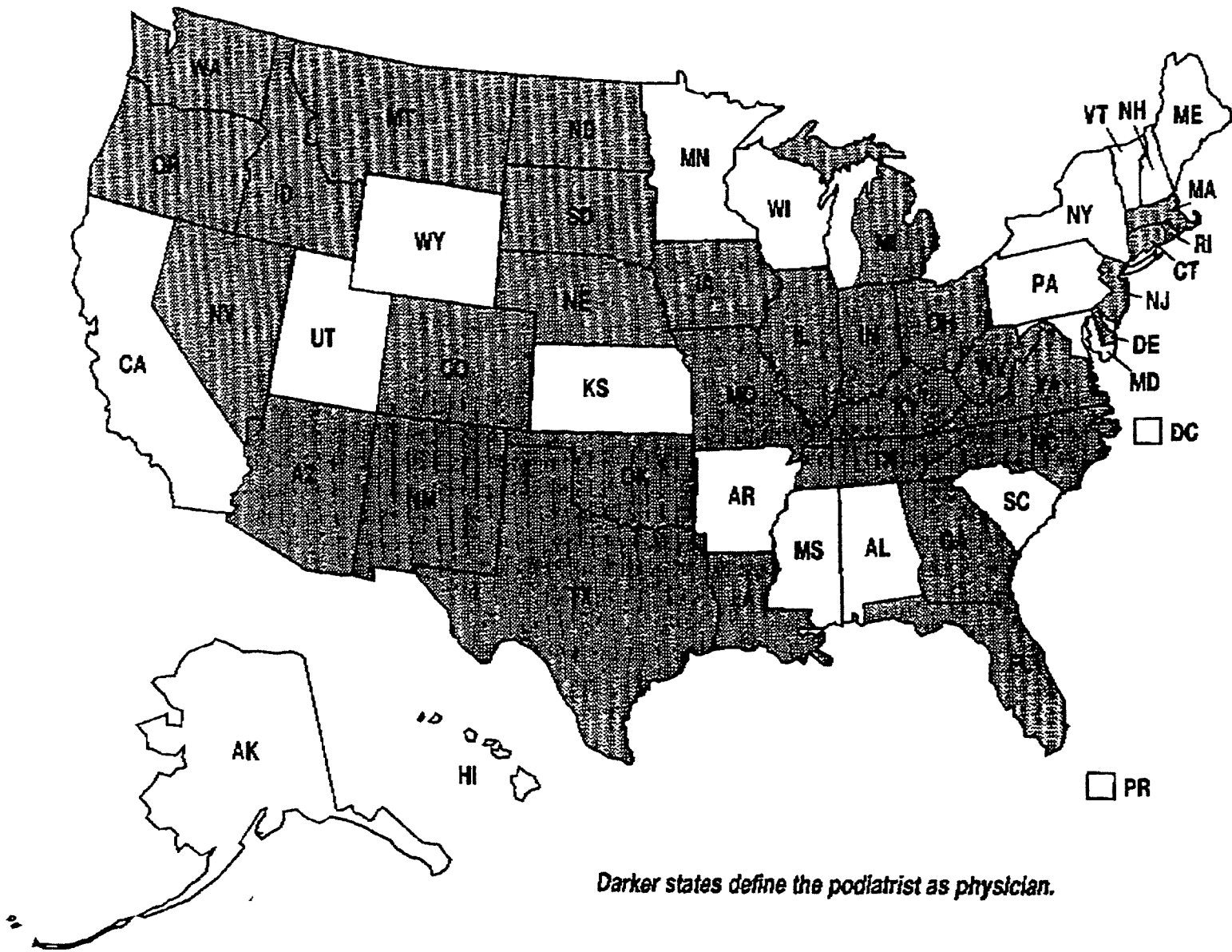
On behalf of the Kansas Podiatric Medical Association, I would like to thank you, Chairman Mayans, and this Committee, for the opportunity to address you this afternoon on this bill. We very much appreciate your time and consideration. I will gladly respond to your questions.

KPMA

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

6-2

Thirty-Two States Define the Podiatrist as Physician, 1995



Darker states define the podiatrist as physician.

Source: APMA Department of Health Affairs, State Reference Manual

6-3

a written order of its findings and if the Board finds that such complaint and evidence are sufficient to warrant the revocation of the license it shall order the Secretary to strike from the rolls of licensed podiatrists the name of the respondent and a copy of such findings and order of the Board shall be served upon the respondent and his attorney. [Authorized by G. S. 1949, 65-2008; effective June 17, 1953.]

72-1-8. Reinstatement of license after revocation. Any person whose license to practice podiatry has been revoked after proper complaint and hearing by the Board may make application for reinstatement but such application for reinstatement may not be made at any period of less than six months after such revocation and shall be in writing by setting forth why such license shall be reinstated.

The Board at its regular meeting after the receipt of such application for reinstatement may make inquiry and such proof as it deems necessary and shall enter such order as it deems just and proper with reference to any application for reinstatement. [Authorized by G. S. 1951 Supp. 65-2003; effective June 17, 1953.]

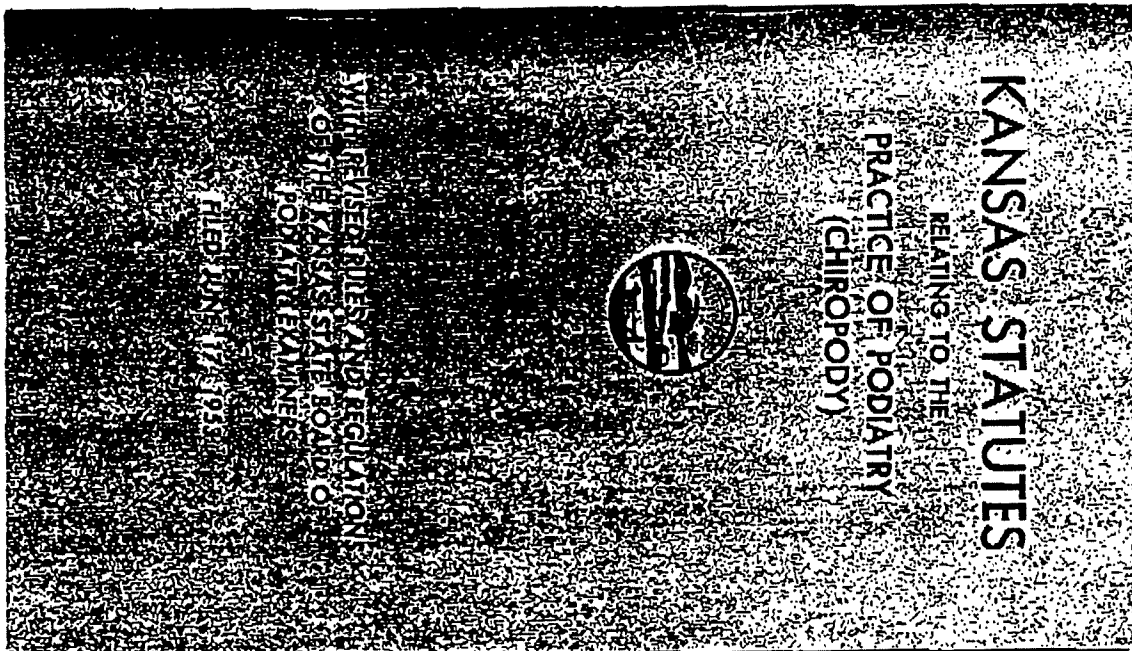
* **72-1-9. Podiatrist or chiropodist defined.** A podiatrist (chiropodist) shall be defined as a physician of the foot. [Authorized by G. S. 1949, 74-2801, etc.; effective June 17, 1953.] *

72-1-10. Surgery prohibited. A license to practice podiatry shall not authorize the licensee to amputate the human foot or toes and neither shall any podiatrist administer any anesthetic other than local. [Authorized by G. S. 1951 Supp. 65-2002; effective June 17, 1953.]

72-1-11. Use of medicines. A podiatrist (chiropodist) shall be authorized to use such drugs as are indicated in the treatment of diseases of the foot. [Authorized by G. S. 1949, 74-2801, etc.; effective June 17, 1953.]

72-1-12. Persons not required to qualify under the act. The above rules and regulations shall not apply to the following: physicians and surgeons or osteopaths as they are authorized to practice their profession in this state. Nothing herein shall prohibit the recommendation, advertising, fitting for sale of corrective shoes, arch supports and all similar mechanical appliances or foot remedies by manufacturers, wholesalers or retail dealers. [Authorized by G. S. 1951 Supp. 65-2002; effective June 17, 1953.]

72-1-13. Amendments of rules. These rules may be amended at any meeting of the Board by a majority vote of the members. Any statutory enactments by the legislature of the state of Kansas in any way inconsistent with the rules or regulations of this Board shall supersede and automatically repeal any such inconsistent rule or rules. [Authorized by G. S. 1949, 74-2801, etc.; effective June 17, 1953.]



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 14, 1996

RE: **HOUSE BILL NO. 2756**

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 in support of HB No. 2756.

This bill is a redraft of SB No. 55, which was heard in the Senate Public Health and Welfare Committee last session. At that time, the Board expressed concerns over the original language of SB No. 55 since that appeared to allow total foot amputations and the administration of general anesthesia by podiatrists. Proposed amendments to SB No. 55 allayed the Board's concerns in these areas and it subsequently supported the bill with the amendments. The changes made to K.S.A. 65-2002 in line 27 of HB No. 2756 by deleting the words "or toes" are supported by the Board. Amputations of toes are felt to be within the area of training and expertise of podiatrists.

The other changes in HB No. 2756 appears to be consistent with Attorney General Opinion # 94-148 issued November 10, 1994. That opinion stated the term "physician" includes podiatrists for purposes of regulation by the State Board of Healing Arts. A copy of the Attorney General Opinion is attached.

Thank you for this opportunity to provide information on this bill.

bj

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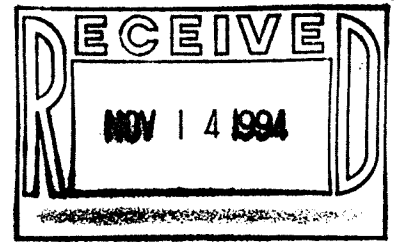
EMILY TAYLOR, LAWRENCE

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ANNE WIGGLESWORTH, M.D., MANHATTAN

DONALD D. YODER, D.P.M., WICHITA

Handwritten:
H & HS Comm
2-15-96
Attn # 7



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

November 10, 1994

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

ATTORNEY GENERAL OPINION NO. 94-148

The Honorable Pat Ranson
State Senator, Twenty-Fifth District
1701 Woodrow Court
Wichita, Kansas 67203

Re: Public Health--Regulation of Podiatrists--License
Required; Scope of Practice; Applicability of Act

Public Health--Healing Arts--Kansas Healing Arts
Act--Persons Deemed Engaged in the Practice of
Medicine and Surgery

Synopsis: The term "physician" includes podiatrists for
purposes of regulation by the Kansas healing arts
board. How inclusive the term is for other
purposes depends on the applicable statutory
definition. Cited herein: K.S.A. 1993 Supp.
8-1001, as amended by L. 1994, ch. 353, § 9;
17-2707; K.S.A. 44-508; K.S.A. 1993 Supp. 59-2902;
60-427; 65-5a01; 65-6b01; K.S.A. 65-1,114; 65-2001;
65-2002; 65-2016; 65-2869; 65-2871; 65-2891a;
65-2892; 65-2897; 65-28,102; 65-2901; 65-3209;
65-4003; 65-4202; 65-5a01; 65-5502; 65-6b01; K.S.A.
1993 Supp. 65-6112, as amended by L. 1994, ch. 154,
§ 1; K.S.A. 74-2805.

*

*

*

Dear Senator Ranson:

As senator for the twenty-fifth district you inquire whether
podiatrists are "physicians" under Kansas law.

You indicate that your inquiry involves health care reform legislation regulating professional health care providers. At issue is whether for purposes of this health care reform legislation podiatrists would be a category of health care provider included in the term physician as currently defined by Kansas law.

Podiatrists are governed by the podiatry act found at K.S.A. 65-2001 et seq. A podiatrist is authorized to prescribe drugs or medicine and to perform such surgery on the human foot or toes, as may be necessary to the practice. The practice, however, may not include amputation of the foot or toes or the administration of any anesthetic other than local, K.S.A. 65-2002. The regulation of podiatrists and enforcement of the podiatry act, K.S.A. 65-2001 through 65-2016, inclusive, lies with the state board of healing arts. K.S.A. 74-2805.

The podiatry act does not define the term "physician." We thus turn to the healing arts act wherein persons engaged in the practice of medicine and surgery are defined as:

"(a) Persons who publicly profess to be physicians or surgeons, or publicly profess to assume the duties incident to the practice of medicine or surgery or any of their branches.

"(b) Persons who prescribe, recommend or furnish medicine or drugs, or perform any surgical operation. . . .

"(c) Persons who attach to their name the title M.D., surgeon, physician, physician and surgeon, or any other word or abbreviation indicating that they are engaged in the treatment or diagnosis of ailments, diseases or injuries or human beings." K.S.A. 65-2869 (Emphasis added).

"Physicians," are for purposes of the healing arts act persons engaged in the practice of medicine and surgery or who profess to be so engaged. Since both acts, the podiatry act and the healing arts act, relate to the same subject, the acts are in pari materia and should be construed together. Caflin v. Walsh, 212 Kan. 1, 8 (1973); See also Attorney General Opinion No. 80-217. Having established that podiatrists are physicians limited to the practice of podiatry as defined in the podiatry act, however, does not address whether

podiatrists are physicians for purposes of health care reform legislation. In our judgment the question can be answered only within the context of the specific legislation and depends upon how narrowly or broadly the term "physician" is defined for purposes of that specific legislation.

Several Kansas statutes define the term "physician" to include podiatrists. For example, for purpose of the physician-patient privilege, a physician is "a person licensed or reasonably believed by the patient to be licensed to practice medicine or one of the healing arts. . . ." K.S.A. 1993 Supp. 60-427(a). Under the workmen's compensation act, a health care provider means any "person licensed . . . to practice medicine and surgery, osteopathy, chiropractic, dentistry, optometry or podiatry." K.S.A. 44-508(i).

In the following statutes the term physician does not specifically include podiatrists although a physician is defined to mean a person licensed to practice medicine and surgery: K.S.A. 65-5a01(c) (children with special health care needs); 65-2897a(b) (physician's assistants); 65-28,102(d) (natural death act); 65-2901 (physical therapists); 65-3209(g) (uniform anatomical gift act); K.S.A. 65-4003(17) (alcoholism and treatment act); K.S.A. 65-4202(b) (mental health technicians); 65-6112 (m) (emergency medical services act); 65-1,114(a) (concerning diabetes); 65-6b01(a) (prescribing and administering laetrile); K.S.A. 65-5502(e) (respiratory therapy practice act). Various statutes outside chapter 65 also limit the term physician to persons licensed to practice medicine and surgery. See K.S.A. 1993 Supp. 8-1001(c) (withdrawal of blood for chemical blood test); K.S.A. 1993 Supp. 17-2707(b) (professional corporations); K.S.A. 1993 Supp. 59-2902(j) (treatment act for mentally ill persons); K.S.A. 1993 Supp. 72-5212 (a)(5) (school health tests and inoculations).

Conversely not all statutes concerning public health which use the word "physician" or health care provider limit it to persons licensed to practice medicine and surgery. See workers compensation statute; K.S.A. 44-508(i), K.S.A. 65-2871, (chiropractors); 65-2891(e) (provision of emergency care); 65-2892 (examination and treatment of minors for venereal disease); 65-2892a (examination and treatment of minors for drug abuse). The broad range of these statutes makes it clear that "physician" can be defined within the context of its purpose.

The general meaning ascribed to the term "physician" can include many practitioners. The term "physician" is defined in Black's Law Dictionary 1033 (rev. 5th ed. 1979) as follows:

"A practitioner of medicine; a person duly authorized or licensed to treat diseases; one lawfully engaged in the practice of medicine."

As evidenced by the statutes cited above the term can be limited to those persons licensed to practice medicine and surgery or it can be defined more broadly to include others by including them in the definition.

In conclusion the term physician includes podiatrists for purposes of regulation by the Kansas healing arts board. How inclusive the term "physician" is for other purposes depends on the applicable statutory definition.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Guen Easley
Assistant Attorney General

RTS:JLM:GE:jm

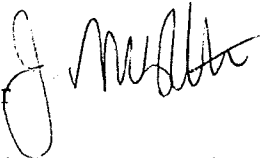


KANSAS MEDICAL SOCIETY

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

February 15, 1996

TO: House Health & Human Services Committee

FROM: Jerry Slaughter
Executive Director 

SUBJECT: HB 2756; concerning expansion of podiatry scope of practice

The Kansas Medical Society appreciates the opportunity to appear today on HB 2756, which would amend the podiatry act in two ways: (1) it would allow podiatrists to call themselves "physician and surgeon of the foot"; and (2) allow them to amputate toes. Under current law, both of these requested changes are not permitted. We oppose HB 2756 as it is currently written.

We met with representatives of the Podiatry Association last fall to discuss this legislation. We indicated our willingness to discuss possible areas of compromise, but identified an issue we simply could not support. We have on several occasions reiterated our willingness to continue discussing those areas where there might be agreement, but the podiatrists have not been willing to pursue those options. Consequently, we have no choice but to oppose the bill as it has been introduced.

First let me clarify a common misunderstanding that contributed to two very convoluted and misleading Attorney General opinions which podiatrists use to support their claim that they can use the term "physician." There are only three branches of the healing arts under the Kansas Healing Arts Act; allopathic medicine (MD's), osteopathic medicine (DO's), and chiropractic (DC's). It may be confusing to some because podiatrists are regulated by the Healing Arts Board, as are physicians and chiropractors. However, podiatrists are governed by their own practice act, K.S.A. 65-2001, *et seq.*, while the Healing Arts Act is at K.S.A. 65-2801 *et seq.* The laws are entirely separate and podiatrists are not licensed to engage in the healing arts; they are licensed to engage in podiatry. In fact, the Healing Arts Act at K.S.A. 65-2872 states "the practice of the healing arts shall not be construed to include the following persons: (n) Podiatrists practicing their profession...."

Furthermore, although the podiatry act authorizes podiatrists to prescribe drugs and perform surgery on the human foot, this does not make them physicians. Dentists can prescribe drugs and perform surgery, but they are not asking to be called physicians. Optometrists can prescribe drugs, yet they are not asking to be called physicians. Certified nurse midwives do obstetrics, but they cannot advertise themselves as physicians. The point is, many other professionals do things that physicians do, yet that does not make them physicians.

Ho. H.S. Comm
2-15-96
Attn #8

House Health & Human Services Committee
Testimony on HB 2756
February 15, 1996
Page 2

The public has come to know that physicians are persons who have gone through medical school and a residency training program in one of many specialties. To allow podiatrists to use the terms "physician and surgeon of the human foot" (lines 23-24 of the bill) will be confusing and misleading to the public. Podiatrists will advertise themselves as "physicians," and the public may think they are getting a physician specializing in orthopedics, when they are really getting a podiatrist. With all due respect to podiatrists, there is a difference.

We know you get tired of us coming to this committee year after year, on bill after bill, opposing groups who either want to be physicians, or call themselves physicians, without going to medical school. To us there is an important principle in all this. We believe that the breadth and depth of medical school and residency training (a total of 7 years at a minimum, and up to 10 years in some specialties) is unparalleled among the health professions. While other providers limit their scope of training and experience to certain parts or systems of the body, only physicians, whatever their specialty, have the benefit of a comprehensive, rigorous educational experience involving the whole patient.

During the time we have been considering the changes proposed by the podiatrists, we have had a chance to look more closely at their practice act. It is very broad and contains some ambiguities that could be tightened up or made more specific. We have been intrigued by some examples of statutes in other states which provide some reasonable limitations on where and under what conditions certain surgical procedures could be done. In addition, we are looking at some language which limits their prescribing specifically to treating conditions of the foot, and prohibiting the use of drugs which could impact systemic diseases, except under the direction of, or according to a protocol with a physician. This could provide an important quality assurance protection which would benefit patients. Unfortunately, we do not have the amendments ready at this time, but should have them very shortly, and can offer them either on the floor or when the bill reaches the Senate, should this committee act favorably on it.

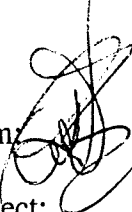
In summary, we are strongly opposed to HB 2756 as it is currently written. We believe it sets a bad precedent by allowing podiatrists to call themselves physicians, which will be misleading to the public. We urge you to report the bill adversely. Thank you for considering our comments.

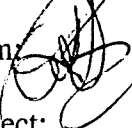
Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

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

February 15, 1996

To:  Chairman Mayans and Members, House Health & Human Services Committee

From:  Harold E. Riehm, Executive Director, KAOM

Subject: Testimony in Opposition to Some Provisions of H.B. 2756

Thank you for this opportunity to express our concerns about one provision in H.B. 2756. Last year KAOM met with representatives of the Podiatric Association in discussion about the first version of the Bill now before this Committee. In testimony we supported expansion of practice to remove the human toe (toes) but not the human foot. We also opposed administration of a general anesthetic.

H.B. 2756 provides only for surgical removal of toes and a local anesthetic. We have no opposition to those provisions.

We do, however, oppose language in lines 23 & 24 which would permit doctors of podiatry to use the term "physician and surgeon of the human foot".

KAOM is aware of testimony to be presented to you by the Kansas Medical Society. We concur with that testimony, and the reasons offered in opposition to the use of the term physician for podiatrists.

Osteopathic physicians share with allopathic physicians (M.D.s) the term "physician". Both are fully licensed to practice medicine and surgery. Any confusion that might result from separate references to "medicine and surgery" and "osteopathic medicine and surgery" is addressed in a Bill currently in Senate Committee. With passage, there will be no separate references, but both groups will be referred to as "physicians" licensed to practice "medicine and surgery".

For years referring only to fully licensed physicians--M.D.s and D.O.s as physicians--has worked well. We think there is a perception as to what physician means to the health consuming public. To permit its expanded use by podiatric doctors would raise questions regarding dentists, and perhaps others.

We respectfully request that this change in reference language be deleted from H.B. 2756. With that deletion we would support its passage.

Thank you for this opportunity to present our views.

Health S Comm
2-15-96
attm #9

HOUSE BILL No. 2423

By Representatives Benlon, Adkins, Ballou, Cox, Empson, Franklin, Freeborn, Grant, Haulmark, Horst, Humerickhouse, King, Lloyd, Merritt, Minor, Neufeld, O'Connor, Ott, Powers, Samuelson, Shore, Spangler, Tomlinson, Toplikar, Weber and Yoh

2-6

H+HS Comm
2-15-96
Attm #10

12 AN ACT concerning social welfare; establishing an alcohol and drug
13 screening program.

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

15 Section 1. (a) For the purposes of providing early intervention and
16 treatment, the secretary of social and rehabilitation services, subject to
17 the provisions of subsection (f), shall establish and implement an alcohol
18 and drug screening program which may include a drug test for persons
19 who have symptoms of alcoholism and drug addiction receiving assistance
20 as provided in K.S.A. 39-709 and amendments thereto.

21 (b) No applicant for assistance shall be required to submit to a screen-
22 ing as a part of such program unless the applicant is determined to be
23 eligible for assistance. The secretary also shall have the authority to es-
24 tablish and implement an alcohol and drug screening program for persons
25 currently receiving general assistance.

26 (c) If ~~[an]~~ assistance recipient is diagnosed with alcoholism or drug
27 addiction, or both, such person shall complete a treatment program rec-
28 ommended as a result of the evaluation. Failure to undergo such alcohol
29 and drug screening and to complete a treatment program shall result in
30 the termination of assistance benefits for such recipient.

[a] cash

31 (d) The results of any test administered as a part of a program au-
32 thorized by this section shall ~~[be confidential and shall]~~ not be disclosed
33 publicly.

[a] portion or all cash

34 (e) The secretary of social and rehabilitation services shall adopt such
35 rules and regulations as necessary to carry out the provisions of this sec-
36 tion.

37 (f) The secretary of social and rehabilitation services shall establish
38 and implement an alcohol and drug screening program for persons re-
39 ceiving general assistance and shall seek waivers from program require-
40 ments of the federal government as may be needed to carry out the
41 provisions of the alcohol and drug screening program for persons receiv-
42 ing assistance other than general assistance. The secretary of social and
43

[a] cash

1 ilitation services shall implement the alcohol and drug screening
2 rogram under this section for persons receiving assistance other than [cash
3 general assistance only if such waivers to federal program requirements
4 have been obtained from the federal government.

5 (g) The words and phrases used in this section shall have the same
6 meaning as is ascribed to such words and phrases under K.S.A. 39-702
7 and amendments thereto.

8 Sec. 2. This act shall take effect and be in force from and after its
9 publication in the statute book.

10-2