

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 March 12, 1997 in Room 423-S-of the State Capitol.

All members were present except: Representative Joann Freeborn  
Representative Clark Shultz

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

Conferees appearing before the committee:

Matthew Hesse, Associate General Counsel, Via Christi Health System, Inc., Kansas City  
and the Kansas Hospital Association  
Steve Dickerson, Legislative Vice President, Kansas Trial Lawyers Association  
Larry Buening, Executive Director, Kansas Board of Healing Arts  
R. E. "Tuck" Duncan, Kansas Occupational Therapy Association

Others attending: See Guest List (Exhibit 1)

The chairperson opened the hearing on **SB 245 - Hospital liens upon personal injury damages recovered by patients**. He introduced Matthew Hesse, Via Christi Health System and the Kansas Hospital Association, who testified in support of the bill. He described the parameters of the Kansas lien law as it has existed and the provisions of this bill. He advised that, for the first time, the Kansas Trial Lawyers are joining in to support the changes proposed in this bill. Mr. Hesse urged approval of the bill (see Exhibit 2).

Steve Dickerson, for the Kansas Trial Lawyers Association, testified in support of **SB 245** (see Exhibit 3).

There being no others present to testify on **SB 245**, the hearing was closed.

Chairperson Mayans opened the hearing on **SB 246 - Temporary permits for occupational therapists and respiratory therapists**, and introduced Larry Buening, Kansas Board of Healing Arts, who testified in support of the bill (see Exhibit 4). Mr. Buening explained the purpose of the bill is to do away with the ability of individuals who have applied for registration as an occupational therapist, occupational therapy assistance or respiratory therapist to receive more than one temporary permit. He stated if an individual cannot pass the appropriate examination so as to be fully registered within a year of completing other registration requirements, the individual will no longer have the right to hold themselves out as being such a therapist in this state.

Tuck Duncan, Kansas Occupational Therapy Association, in supporting passage of **SB 246**, held up a sign, saying "Ditto," to indicate the association's agreement with the testimony of Mr. Buening (see Exhibit 5).

After discussion, on motion of Representative Morrison, seconded by Representative Gilmore, the committee passed SB 246. Representative Showalter will carry the bill on the floor of the House.

Then, on motion of Representative Powell, seconded by Hutchins, the committee passed SB 245 favorably. Representative Powell will carry the bill.

The meeting was adjourned at 2:20 p.m.

The next meeting is scheduled for March 13, 1997.

HOUSE COMMITTEE ON HEALTH AND HUMAN  
SERVICES COMMITTEE GUEST LIST  
MARCH 12, 1997

NAME	REPRESENTING
Susan Baker	Hein + Weir
JASON PITSENBARGER	BRAD STREET
LARRY BUENING	BD OF HEALING ARTS
Dorinda de Bruijn	KS Insurance Dept.
Nancy Schaefer	State Farm
Jack DUNCAN	KS. occupational therapy ASSN.
Mary Hanson	KMC
Walt Hoff	Assoc Credit Bureaus K
Larry Campbell	R. Rice Law Office
Matt Hesse	Via Christi Health System / KITA
Steve Dickerson	KTLA
Mary Ellen Carter	Via Christi Health System
Kim Grotter	Health Midwest

TESTIMONY BEFORE HOUSE COMMITTEE  
ON HEALTH AND HUMAN SERVICES

Senate Bill No. 245  
March 12, 1997  
Topeka, Kansas

Chairman Mayans, distinguished members of the Committee. My name is Matthew C. Hesse. I am an attorney from Wichita, Kansas representing Via Christi Health System in Wichita, Kansas, which includes Via Christi Regional Medical Center, Our Lady of Lourdes Rehabilitation Hospital, both in Wichita, Kansas, as well as the community hospitals of Mt. Carmel Medical Center in Pittsburg, Kansas and Mercy Health Center in Manhattan, Kansas. The Via Christi organization and its affiliate hospitals are all not-for-profit corporations dedicated to serving the healthcare needs of the citizens of Kansas and the communities they serve.

Additionally, I am appearing on behalf of the Kansas Hospital Association (KHA), an organization which represents 125 community hospitals and a total of 148 members. All these hospitals are speaking with one voice in favor of passage of Senate Bill 245.

Lien Law History

It may be helpful to give you a short legislative history of the lien law in the State of Kansas. The first lien law was enacted in 1939 and allowed a hospital a lien in an amount not to exceed \$200. Twelve years later, in 1951, the legislature more than tripled the amount of the lien to \$700, in recognition of rising healthcare costs and inflation. Six years later, in 1957, another increase was given resulting in the lien amount more than doubling to \$1,500. The last modification to the lien law occurred 25 years ago, in 1972. That modification brought the lien amount to \$5,000. While healthcare costs and inflation have driven the cost of healthcare to unprecedented levels over the past 25 years, the lien amount has remained at the \$5,000 limit.

Lien Laws of Other Jurisdictions

Senate Bill 245 provides that the lien amount shall be "to the amount of the reasonable and necessary charges" of such hospital for the treatment, care and maintenance of the patient. Senate Bill 245 will bring our state in line with surrounding jurisdictions which also permit hospital liens to the extent of the reasonable and necessary or customary charges. Examples include:

Oklahoma - Hospitals have "a lien upon that part going or belonging to such patient of any recovery or sum had or collected or to be collected by such patients, or by his heirs, personal representatives or next of kin in the care of death, whether by judgment or by settlement or compromise to the amount of the reasonable and necessary charges of such hospital for the treatment, care and maintenance of such patient up to the date of payment of such damages." O.S. 42§43.

Colorado - Hospitals have a lien "for all reasonable and necessary charges for hospital care upon the net amount payable to such injured person." C.R.S. 38-27-101.

Nebraska -Article 4, Section 52-401 provides that when any person employs a physician, nurse or hospital to perform professional services of any nature in connection with the treatment of an injury and thereafter claims damages from the party causing the injury, such physician, nurse or hospital shall have a lien upon any sum awarded the injured person in judgment or obtained by way of settlement or compromise for the usual and customary charges of such physician, nurse or hospital applicable at the time the services are performed.

New Mexico - Hospitals can assert a lien to the extent of "the reasonable, usual and necessary hospital charges for treatment, care and maintenance of the injured party in the hospital and to the date of payment." N.M.S. 48-8-1.

Arizona - Hospitals are entitled to a lien "for the customary charges for hospital care and treatment of an injured person." Hospital Lien, §33-931.

Delaware - Charitable hospitals have a lien "for the amount of reasonable charges of such hospital for all medical treatment, care and nursing and maintenance of such injured person while in such hospital to the extent of the full and true consideration paid or given to, or on behalf of, such injured person or his legal representative." 25 § 4301, Hospital Liens

New York - Hospitals shall have a lien "for the amount of the reasonable charges in such hospital, for the treatment, care and maintenance of such injured person . . ." Article 8 §189.

### Joint Support for Senate Bill 245

Senate Bill 245 provides a long overdue modification to the hospital lien amount. Unlike past years, the Kansas Trial Lawyers Association (KTLA), are joining the hospitals in support of the proposed changes. The proposed language was drafted and approved by both organizations (KTLA and KHA hospitals) and both organizations urge your support and approval of the Bill.

### Conclusion

Senate Bill 245 was drafted in a cooperative spirit and with the intent of creating equity and fairness between a patient injured by reason of an accident (other than workers compensation) and the hospitals which provide medical services. We urge your support and the passage of Senate Bill 245.

If the Committee desires any additional information, please feel free to contact me or the Kansas Hospital Association.

Matthew C. Hesse  
Associate General Counsel  
Via Christi Health System, Inc.  
1109 North Topeka  
Wichita, Kansas 67214  
(316) 268-5088



KANSAS TRIAL LAWYERS ASSOCIATION

*Lawyers Representing Consumers*

March 12, 1997

TO: House Health and Human Services Committee  
Carlos Mayans, Chair

FROM: Terry Humphrey, Executive Director  
Steve Dickerson, Legislative Vice President

SUBJECT: SB 245 - Concerning the Hospital Lien Bill

Since 1939 Kansas has had a hospital lien law which is codified at K.S.A. 65-406 et seq. This statute creates a lien against an injured victim's recovery of monetary damages for unpaid hospital charges incurred by the victim as a result of the wrongdoer's fault.

As originally enacted in 1939, the statutory lien was limited to reasonable and necessary hospital charges of not more than \$200.00 for emergency services. In 1951 the statute was broadened to include all reasonable and necessary hospital charges not to exceed \$700.00. The lien ceiling was raised to \$1,500.00 in 1957 and \$5,000.00 in 1972.

The Kansas Hospital Association (KHA) has voiced concern that the \$5,000.00 lien cap has caused a hospital shortfall in certain instances where the victim's recovery was arguably sufficient to pay all of the victim's actual damages including hospital charges. This concern prompted introduction of Senate Bill 577 in the 1996 legislature which, as originally introduced, contained an unlimited hospital lien. SB 577 did not pass in the House and was never enacted. The KHA has renewed its effort to increase the \$5,000.00 lien cap in the 1997 legislature.

HOUSE HEALTH/HUMAN SERVICES  
Attachment 3-1  
3-12-97

*Terry Humphrey, Executive Director*

The Kansas Trial Lawyers Association (KTLA) has expressed concern that an unlimited hospital lien could result in a harsh, unjust outcome for the injured victim in many cases. Multiple damages and losses are often sustained by the victim or the victim's surviving family including past and future hospital and medical expenses; lost wages; impairment of the victim's capacity to work and earn a living in the future; permanent disability or disfigurement; funeral expenses; loss of the victim's performance and contribution of household services to the family; property damages; pain and suffering; and other items.

Sometimes the victim's actual damages, including hospital charges, are greater than the victim's recovery, for example, the wrongdoer may have insufficient liability insurance coverage to fairly compensate the victim for the harm inflicted. In such a situation an unlimited hospital lien could exhaust the victim's recovery to the exclusion of compensation for the victim's other damages and losses.

Mindful of the other association's concern in this area, the KHA and KTLA have mutually developed compromise language for SB 245 which accomplishes the following:

1. Hospitals will be allowed to assert a lien unlimited in amount.
2. Liens of \$5,000.00 or less and the first \$5,000.00 of liens greater than \$5,000.00 shall be fully enforceable as they are under present law.
3. Lien sums above \$5,000.00 shall only be enforceable to the extent their

House Health and Human Services Committee  
March 12, 1997  
Page Three

enforcement constitutes an equitable distribution of the recovery under the circumstances.

If a hospital and an injured victim cannot agree on what constitutes an equitable distribution under the circumstances, the matter is submitted to a court for determination.

This procedure allows the court to fashion an equitable distribution of the recovery based upon all prevailing factors including the amount of the hospital lien, the nature and extent of the victim's actual damages and the amount of the recovery.

KHA and KTLA jointly endorse the compromise language.



# 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

## MEMORANDUM

**TO:** House Committee on Health and Human Services

**FROM:** Lawrence T. Buening, Jr.  
Executive Director

**DATE:** March 12, 1997

**RE:** **SENATE BILL NO. 246**

Chairman Mayans and members of the Committee, thank you very much for making time on your very busy schedule for hearing Senate Bill No. 246. This bill was requested for introduction by the State Board of Healing Arts and I am here today, on behalf of the Board, to testify in support of its favorable consideration by this Committee.

This bill, quite simply, does away with the ability of individuals who have applied for registration as an occupational therapist, occupational therapy assistant or respiratory therapist to receive more than one temporary permit. Currently, individuals who have failed to pass the required examination for registration in any one of these professions after one year may apply for second, third and even fourth temporary permits. Action on requests for more than a single temporary permit require approval by a majority of the Board. K.S.A. 65-5416 (occupational

#### MEMBERS OF BOARD

HOWARD D. ELLIS, M.D., PRESIDENT

LEAWOOD

JOHN P. GRAVINO, D.O., VICE-PRESIDENT

LAWRENCE

DONALD B. BLETZ, M.D., OVERLAND PARK

C.J. CONRADY, JR., ANTHONY

JAMES D. EDWARDS, D.C., EMPORIA

EDWARD J. FITZGERALD, M.D., WICHITA

ROBERT L. FRAYSER, D.O., HOISINGTON

LANCE MALMSTROM, D.C., TOPEKA

LAUREL H. RICKARD, MEDICINE LODGE

CHRISTOPHER P. RODGERS, M.D., HUTCHINSON

HAROLD J. SAUDER, D.P.M., INDEPENDENCE

EMILY TAYLOR, LAWRENCE

ROGER D. WARREN, M.D., HANOVER

JOHN P. WHITE, D.O., PITTSBURG

RONALD J. ZOELLER, D.C., TOPEKA

HOUSE HEALTH/HUMAN SERVICES

Attachment 4-1  
3 - 12 - 97

therapists and occupational therapy assistants) and K.S.A. 65-5516 (respiratory therapists) require that any such requests be conducted in accordance with the Kansas Administrative Procedure Act and reviewable in accordance with the act for judicial review and civil enforcement of agency actions. Attached to this testimony are selected pages from several of the agendas of recent Board meetings. As you can discern, a substantial amount of space, if not actual time, is devoted to rendering decisions on requests for second and third temporary permits.

The Board, the Occupational Therapy and Respiratory Therapy Councils, and the associations representing each of these professions are firmly of the opinion that if an individual cannot pass an examination to be fully registered within a year of otherwise completing the requirements for registration, that individual should no longer have the right to hold themselves out as being a respiratory therapist, occupational therapist or occupational therapy assistant in the State of Kansas.

Thank you for being willing to hear this bill and I hope you would consider it favorably for passage. I would be happy to respond to any questions.

**KANSAS STATE BOARD OF HEALING ARTS  
BOARD MEETING AGENDA**

**JUNE 22, 1996**

235 S. Topeka Blvd.  
Topeka, Kansas 66603-3068  
(913) 296-3680

- I. Call to Order - Roll Call - 8:30 a.m.
- II. Approval of Agenda
- III. Approval of Minutes - Regular Meeting April 27, 1996
- IV. Staff Reports

Executive Director:

General Counsel:

Disciplinary Counsel:

Assistant General Counsel:

Associate Counsel:

Licensing Administrator:

V. Administrative Proceedings

- 10:00 a.m. PEES, Jeanne, P.T. - Conference Hearing  
on Termination of Stipulation
- 10:15 SHENDE, Harsh, (O.T.) - Conference  
Hearing on Second Temporary Registration
- BUSAKA, Musalia J., (O.T.) - Conference  
Hearing on Second Temporary Registration
- SHARMA, Manisha, (O.T.) - Conference  
Hearing on Second Temporary Registration
- MAJUMDER, Mousumi, (O.T.) - Conference  
Hearing on Second Temporary Registration
- PAUL, Achintya K., (R.T.) - Conference  
Hearing on Second Temporary Registration
- HAYWOOD, Rick, (RT) - Conference Hearing  
on Application for Registration

10:45

SOLOMON, George, MD - Reconsideration of Final Hearing

RAJCA, Jo Ann Loar, RT - Conference Hearing on Application for Registration

MOHONRAJ, Monoah, OT - Conference Hearing on Third Temporary Registration

BUSAKA, Musalia, OT - Conference Hearing on Third Temporary Registration

VENEZIA, Alicia L., PT - Conference Hearing on Third Temporary Permit

RIOS, Despina V., PT - Conference Hearing on Third Temporary Permit

ANSINGKAR, Kalyani, OT - Conference Hearing on Second Temporary Registration

DHAS, Milton, OT - Conference Hearing on Second Temporary Registration

ROY, Suparna, OT - Conference Hearing on Second Temporary Registration

MAHECHA, Martha, OT - Conference Hearing on Second Temporary Registration

NGANGA, John, OT - Conference Hearing on Second Temporary Registration

SUBANDH, Prita, OT - Conference Hearing on Second Temporary Registration

DAS, Chinmay, OT - Conference Hearing on Second Temporary Registration

JARSO, Solomon, OT - Conference Hearing on Second Temporary Registration

GONZALES, Norma, RT - Conference Hearing on Second Temporary Registration

11:30

ELLIAS, Mazin Abidul Masih, MD - Conference Hearing on Application for Licensure

HALLABA, Moheb, MD - Conference Hearing on Petition for Revocation, Suspension or Limitation of License

KANSAS STATE BOARD OF HEALING ARTS  
BOARD MEETING AGENDA

DECEMBER 6-7, 1996

235 S. Topeka Blvd.  
Topeka, Kansas 66603-3068  
(913) 296-3680

Friday, December 6, 1996

- I. Call to Order - Roll Call - 8:30 a.m.
- II. Approval of Agenda
- III. Approval of Minutes - Regular Meeting October 19, 1996
- IV. Adoption of Respiratory Therapy Rules and Regulations
- V. Staff Reports
  - Executive Director:
  - General Counsel:
  - Licensing Administrator:
- VI. Administrative Proceedings
  - 9:00 a.m. AGCAOILI, Lucrecia (OT) - Conference Hearing on Second Temporary Permit
  - SINGH, Kalpana (OT) - Conference Hearing on Second Temporary Permit
  - REYES, Noel (OT) - Conference Hearing on Second Temporary Permit
  - BASANTE, Janne (OT) - Conference Hearing on Second Temporary Permit

VI. Administrative Proceedings (Continued)

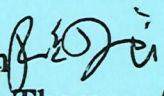
- 9:00 a.m. AHUJA, Sangeeta (OT) - Conference  
Hearing on Second Temporary Permit
- PRADEEP, Pradeep (OT) - Conference  
Hearing on Second Temporary Permit
- DELA PENA, Lorena Leah Appa (OT) -  
Conference Hearing on Second Temporary  
Permit
- CLARK, Timmy (PTA) - Conference Hearing  
on Third Temporary Permit
- 9:15 OEHLECKER, Donald G., MD - Conference Hearing  
on Disciplinary Petition
- 9:30 REESE, Jack, MD - Conference Hearing  
on Disciplinary Petition
- 10:00 PEARSON, Mark, MD - Conference Hearing on  
Disciplinary Petition
- HART, Dillis, MD - Conference Hearing  
on Disciplinary Petition
- 10:15 WILLIAMS, Fenton, MD - Conference Hearing on Motion  
for Assessment of Costs
- MENDIOLA, Ambrosio, MD - Conference  
Hearing on Motion for Assessment of Costs
- 10:45 ARKELL, William J., DO - Conference  
Hearing on Termination of Stipulation
- 11:00 HILST, Wilbur, MD - Reconsideration of  
Final Order
- 1:00 p.m. - JAMIESON, Austin, DO - Review of Initial Order -

- VII. Offers of Settlement Agreements  
VIII. Other Business  
IX. Adjournment



214 S.W. 7th Street  
Topeka, KS 66603  
(913) 233-4111

TO: House Committee on Health and Human Services

FROM: R.E. "Tuck" Duncan   
Kansas Occupational Therapy Association

RE: SB 246, relating to temporary permits issued under  
the Occupational Therapy Practice Act

The Kansas Occupational Therapy Association supports SB 246 to limit the issuance of a temporary registration such that no more than one such temporary registration shall be permitted to any one person. Attached for your information is a brochure explaining Occupational Therapy. Thank you for your attention to and consideration of this matter.

HOUSE HEALTH/HUMAN SERVICES  
Attachment 5-1  
3 - 12 - 97

## Work

helps in the assessment and treatment of individuals whose ability to function at work has been impaired by injury, disability, or illness.



## Assistive Technology

helps people become more independent through the design, fabrication, and application of orthotic devices, the use of prosthetic devices, and the adaptation of the physical and social environment.



## Who Are Occupational Therapy Practitioners?

Occupational therapy practitioners can be credentialed at either the professional (occupational therapist) or technical (occupational therapy assistant) level after completing a 4-year baccalaureate or 2-year associate degree program at one of over 150 accredited programs at colleges and universities throughout the U.S.

Occupational therapy practitioners must also complete a supervised fieldwork program and pass a national certification exam administered by the American Occupational Therapy Certification Board.

Forty-nine states, the District of Columbia, and Puerto Rico regulate the practice of occupational therapy. Many of these jurisdictions mandate periodic continuing education requirements.

The American Occupational Therapy Association (AOTA) has established standards for the profession that have been adopted by many states in their laws and regulations. AOTA also has accredited the nation's occupational therapy educational programs since 1935.

### ◆ Occupational therapy services are covered under most major public and private insurance plans, such as:

- ◆ Medicare/Medicaid
- ◆ CHAMPUS
- ◆ Federal Employee Health Benefits Plan (FEHBP)
- ◆ Blue Cross/Blue Shield
- ◆ Prudential
- ◆ Continental Casualty
- ◆ Aetna
- ◆ State Workers' Compensation

### ◆ A word from Blue Cross of California...

*"As an insurer that is concerned with applying managed care techniques to improve cost-effectiveness of health care provided to our subscribers, Blue Cross of California has found appropriate occupational therapy services to be a desirable component of treatment. By including this service in our benefit plans, we have been able to satisfy our subscribers' personal needs and improve the extent of their functional recoveries, yet continue to meet the financial objectives of our insurance products."*

*For more information about occupational therapy, contact your state occupational therapy association, or the Government Relations Department of the AOTA at (301) 652-2682.*

## AOTA

4720 Montgomery Lane  
P.O. BOX 31220  
Bethesda, MD 20824-1220

301 652 2682  
FAX: 301 652 7711  
TDD: 1 800 377 8555

© AOTA, 1995

# Occupational Therapy

## Reducing Health Care Costs—Enhancing Quality Of Life



## AOTA

The American Occupational Therapy Association, Inc.



## How Occupational Therapy Helps

Occupational therapy is a health and rehabilitation profession that helps people regain, develop, and build skills that are important for independent functioning, health, well-being, security, and happiness.

Occupational therapy practitioners work with people of all ages who, because of illness, injury, and developmental or psychological impairment, need specialized assistance in learning skills to enable them to lead independent, productive, and satisfying lives.

Because occupational therapy can prevent injury, or worsening of existing conditions or disabilities, and promotes independent functioning in individuals who may otherwise require institutional or other long-term care, occupational therapy helps keep health care costs down and maximizes the quality of life for the individual, their family, and other caregivers.

## What Makes Occupational Therapy Different From Other Health Professions?

In addition to dealing with an individual's physical well-being, occupational therapy practitioners address psychological, social, and environmental factors that may impede independent functioning in all aspects of the individual's life. This unique perspective makes occupational therapy a critically important part of a health care program.

### ◆ Occupational therapy practitioners provide services in:

- ◆ Hospitals
- ◆ Schools
- ◆ Outpatient Rehabilitation Centers
- ◆ Homes
- ◆ Mental Health Facilities
- ◆ Nursing Homes
- ◆ Community Centers
- ◆ Substance Abuse Programs
- ◆ Clinical and Private Practice
- ◆ Hospice Programs

## Occupational Therapy Is Cost Effective

Prompt and effective treatment by an occupational therapy practitioner may often significantly decrease the length of the hospital stay, reduce the need for institutionalization, promote early return to employment, reduce the care and services needed after discharge, and prevent complications and further injury and disability.



## Areas of Occupational Therapy Practice

### Pediatrics

helps infants and children with many problems and diagnoses (such as cerebral palsy, mental retardation, developmental delay, or learning disabilities) achieve age-appropriate skills.



### ◆ Occupational therapy services significantly improve rehabilitation for many people with impairments due to:

- ◆ Arthritis, Cancer, or Other Debilitating Illnesses
- ◆ Head or Spinal Cord Injury
- ◆ Orthopedic or Work/Sports-Related Injuries
- ◆ Amputation
- ◆ Burns
- ◆ Hand Trauma
- ◆ Stroke and Other Neurological Conditions
- ◆ Mental Illness
- ◆ Developmental Disabilities

### Geriatrics

helps older adults with a range of illnesses, disabilities, or function impairment due to aging achieve their maximum level of independence.



### Mental Health

helps individuals with mental illness to achieve independence and community integration.

