Approved: 2-23-98
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on February 18, 1998 in Room 526-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:
Bud Grant, Kansas Chamber of Commerce and Industry
Becky Rosas, Medi-Kwik Vending Service, Hutchinson
Bob Williams, Kansas Pharmacists Association
Jim Sperry, Kansas Academy of Physician Assistants, Atchison
Loretta Hoerman, Kansas Academy of Physician Assistants, Legislative Chair

Others attending: See attached list

Action on SB 270 - Sale of certain goods at flea markets

Staff briefed the Committee on balloon of **SB 270** showing proposed amendments that would define "medical device". (See Attachment 1) During Committee discussion concern was expressed with language relating to pharmaceuticals and over-the-counter drugs offered for sale at flea markets stricken from the bill on page 1, line 15, as well as the bill not fully restricting stolen items from being sold at flea markets. Concern was also expressed that canned foods and other products obtained from a store fire could be sold at flea markets. The Chair suggested that these may be an issues that the House committee may want to address during their hearings on the bill. Bud Grant, KCCI, felt that language in the bill would send a message to flea market vendors not to buy stolen items and sell such items at their flea markets. Staff brought the Committee's attention to the food, drug and cosmetic act, K.S.A. 65-656 (e) that defines the term "device", and suggested that the language referencing definitions in the food, drug and cosmetic act to device and cosmetics needed to be inserted in the bill.

Senator Langworthy made a motion to adopt the balloon amendments to **SB 270** with additional language referencing definitions in the food, drug and cosmetic act for medical devices and cosmetics, and that the Committee recommend **SB 270 as amended** favorably for passage, seconded by Senator Hardenburger. The motion carried. Senator Steineger voted "no".

Hearing on SB 533 - Sale of nonprescription medicines and drugs through vending machines

Becky Rosas, Medi-Kwik Vending Service, Hutchinson, addressed the Committee in support of **SB 533** that would allow the sale of medicines and drugs through vending machines. Present law states that selling prescription drugs or medicines through vending or other mechanical devices is a misdemeanor. **SB 533** would change the wording to specify a class C nonperson misdemeanor. The bill would also add language to existing law to clarify that only nonprescription drugs and medicines could be sold through vending machines in the manufacturer's original, tamper-evident and expiration-dated package. In response to a question regarding children purchasing vending machine items, Ms. Rosas noted that most businesses, such as Wal-Mart and Kwik shops, supply the same basic products, and that these products could also be picked up and purchased by anyone, adult or child. She also pointed out that Kansas is one of two states that does not allow the sale of medicines and drugs through vending machines. (Attachment 2) During Committee discussion Ms. Rosas noted they presently have vending machines for employees in nursing homes in Oklahoma.

Bob Williams, Kansas Pharmacists Association, testified in opposition to **SB 533** because the packaging of the product is not in a child resistant package, and the bill does not clarify who would be responsible for removal of outdated drugs or for penalties in not removing outdated drugs in a timely manner. (See Attachment 3)

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

Comments were also made from a pharmacist in attendance at the meeting, Frank Whitchalk, who expressed his concern on who would check the expiration dates on medication and whether the consumer would take vending machine medication along with prescription medication. Ms. Rosas noted that as vending machines are refilled, they check the expiration date of the remaining products. The Chair noted that the Committee will look at these and other issues such as climate control and the location of vending machines when the Committee considers the bill.

Hearing on SB 622 - Providing for licensure of physician assistants

Jim Sperry, President of the Kansas Academy of Physician Assistants, submitted written testimony and expressed his support for **SB 622** which would change the regulatory level for physician assistants in Kansas from registration to licensure. Mr. Sperry noted that they seek no change in the relationship with the supervising physician or scope of practice, nor do they wish to limit the practice of any other health care provider. He felt that passage of the bill would alleviate the shortage in primary medical care by improving the recruitment and retention of physician assistants as health care providers in medically underserved areas, reduce some of the costs associated with primary health care by increasing access to health care through the efficient use of the physician assistant and the broad range of diagnostic and therapeutic training and skills, and enhance physicians' patient services by utilizing the physician's high level of specialized skills and expertise. (Attachment 4)

Loretta Hoerman, Chair of the legislative committee for Kansas Academy of Physician Assistants, also spoke in support of **SB 622** and noted that Physician Assistants are licensed in 26 states, registered in 8 and certified in 16 states. Eight states are pursuing legislative change to licensure this year. There are approximately 280 physician assistants registered with the Kansas Board of Healing Arts. (Attachment 5)

The issue of insurance companies not recognizing physician assistants was discussed as well as expansion of scope of practice. The Chair noted that these and other issues needed to be contemplated by the Committee, and discussion of the bill will be continued after the "turnaround". Written testimony from other conferees included: Meg Draper, KMS, in support of the bill with an amendment, (See Attachment 6); Keith Landis, Christian Science Committee, with an amendment, (Attachment 7); and Larry Buening, Board of Healing Arts, in opposition to the bill, (Attachment 8).

Adjournment

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

The next meeting is scheduled for February 19, 1998.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 2-18-98

NAME	REPRESENTING
LINDA McGILL	PMA
Kelly Finney	Ks. Public Health Association
Debbie Shaffer	Horton Health Foundation
Shelbe King, LMSW	" " "
Arlene Samuelson	Medi-Kwik
Barby Rosas	Medi Kwik
Doug Smith	Ks Academy Physician Assistants
Jim Sperry	Ks Academy of Physician Assistants
LORETTA HOFFMAN	KS ACADEMY of PHYSICIAN ASSISTANTS
[illegible]	KCA
Bill Chauvin	KPhA
FRANK Whitehead	KPHA
Vicki Schmidt	Ks. Board of Pharmacy
LARRY FROELICH	Ks Board of Pharmacy
Bob Williams	Ks. Pharmacists Assoc.
[illegible]	KADA
LARRY BUENING	BD OF HEALING ARTS
[illegible]	KMS
[illegible]	KMS

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 2-18-98

NAME	REPRESENTING
RITA NOLL	Health Care Stabilization Fund
BOB HAYES	HCSF
KEITH R LANDIS	CHRISTIAN SCIENCE COMM ON PUBLICATION FOR KS
[illegible]	KCCI
Lary Sisson	Kearney Law office

Session of 1997

SENATE BILL No. 270

By Committee on Judiciary

2-11

AN ACT concerning the transient merchant licensing act; relating to flea markets; sale of certain goods.

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

Section 1. (a) No person at a flea market shall sell, offer for sale or knowingly permit the sale of baby food, infant formula or similar products, or any ~~pharmaceuticals, over-the-counter~~ drugs, cosmetics or medical devices. The provisions of this section shall not apply to a person who keeps available for public inspection an identification card identifying such person as an authorized representative of the manufacturer or distributor of any pharmaceuticals, over-the-counter drugs, cosmetics or medical devices, as long as the card is not false, fraudulent or fraudulently obtained.

~~(b)~~(c) For purposes of this section, "flea market" means any location, other than a permanent retail store, at which space is rented or otherwise made available to others for the conduct of business as a transient merchant as defined in K.S.A. 29-2232 and amendments thereto.

~~(c)~~(d) The provisions of this section shall be part of and supplemental to the transient merchant licensing act.

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

as defined in K.S.A. 65-1626 and amendments thereto.

(b) "Medical device" means instruments, apparatus and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.

Senate Public Health and Welfare
Date: 2-18-98
Attachment No. 1

MEDI KWIK plus CONVENIENCE CENTER

P.O. Box 1071 Hutchinson, Ks. 67504-1071
316-669-0055 800-528-5535

Testimony before the Senate Committee of Public Health and Welfare.

Thank you for your time today.

Have you ever had a splitting headache and no aspirin with you? (Well, open your folder and you will find some for your next migraine). Or perhaps the breakfast you wolfed down is not agreeing with you and you cannot concentrate?! All of us have been in that situation. So why not check with a drug store? Well, if you had the time that would be great, but you have a meeting. And besides that you have a full bottle at home, why spend several dollars when you only need two? So what do you do? Hey! There's that new vending machine down the hall with Mylanta or Advil in it -whatever you need. What a great idea!

That's the kind of service Medi-Kwik provides nationally for business and industry in 48 states. The only 2 states with laws currently restricting such a service are Arizona and Kansas. Presently we are servicing from the Hutchinson area, several nursing homes and manufacturing plants in central Oklahoma. I hope today to change your minds on this 65 year old law and provide welcome assistance to companies in your state.

You'll notice that along with the copy of my testimony there is a copy of the flyer we use to market our product as well as some samples of the medicines sold. The medicines are ***always*** vended in the manufacturer's sealed, tamper evident and expiration dated packages, the same way you may buy it from your local convenience stores. The machines are not the large glass fronted types, but smaller specialty machines, generally placed in employee break rooms.

As mentioned, Medi-Kwik is a nationwide vending company providing over the counter medicines to businesses such as IBM, Xerox Corporation, AT&T, 3M, Sam's Club, and Sony to name a few. When we use the term "OTC meds" we mean, products such as Tylenol, Advil Sinus, Mylanta, Midol, Bayer and Motrin.

The businesses mentioned have recognized the value of these machines because of 2 main reasons: #1 Production Costs and #2 (more importantly) Liability.

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First, Production Costs: When the headache or indigestion of an employee is not treated with one of the products provided, the employee may simply go home from work. When the employee is provided with OTC medication, companies increase their production and profits. In some companies, it's estimated that the Occupational Health Nurse spends as much as 25% of his/her time dispensing medicines and doing the paperwork necessary to minimize exposure to liability. Couldn't that time be better used elsewhere?

Second, the issue of Liability: For those companies who do not have a nurse and dispense medicines through a "free-for-all" system, liability is an extremely serious issue. You'll notice on the flyer you have an incident involving a large suit on behalf of an employee who over-medicated himself from the company's medicine cabinet. Problems such as these are eliminated with a vending machine. The employee makes the choice of medicine, and purchases it. They are accountable for what they have taken--they assume that responsibility themselves, not the company. Purchasing a package of Tylenol or Advil Sinus medication is no different than if you would go into a supermarket and purchase something. With a contract set up outside the company, there is no worry of liability on the part of the employer.

However the question of safety does come up, especially if children are around. That is a reasonable concern. As you can see from the photos in your folder, a lot of businesses, typical to every town around us, supply the same basic products we do, except in a much more open manner. These can easily be picked up and purchased by anyone, child or adult. So is the safety issue a real problem? No. There is no difference between buying an aspirin from a machine or from the clerk at the gas station.

We are not proposing that the law be changed to vend antibiotics and blood pressure medicine - we leave that to the pharmacists. What we are asking is that you join the other 48 states and allow these over the counter medicines to be distributed in an accessible, safe and convenient manner for business and industry.

Thank you again for your time!

Statute # 65-650
Chapter 65.--PUBLIC HEALTH
Article 6.--FOOD, DRUGS AND COSMETICS
Sale of medicines, drugs and poisons by vending machines; penalty.

1933

Any person, firm or corporation who shall offer for sale or sell or distribute any medicine, drug or poison through or by means of any vending machine or other mechanical device, or who shall use any vending machine in or for the sale or distribution of any medicine, drug or poison, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500).

AMERICAN OCCUPATIONAL HEALTH CONFERENCE 1995 LAS VEGAS, NV

CONFERENCE PROCEEDINGS

Circled questions

Wednesday, May 3, 1995
Course 611: Over the Counter Medications
Susan A. Randolph, MSN, RN, COHN

"Use a vending machine for OTC medications. A vending machine with OTC medications provides all employees access to medications. Employees decide what medication they want and purchase it, thus accepting responsibility for their action and health care. Establish a contract with a vendor for the vending machine. Decide which unit dose medications should be included, the amount to be stocked, frequency of restocking with attention to expiration dates, etc."(page 48)

using medications. Possibly, have the employee bring a list in of the medications the obstetrician approves.

Q.--What options if any does a single nurse unit with no physician backup have to administer OTC medications?

A.--Legally, she has no ability to administer OTC's without some sort of a standing order. If there is not a company physician, there has to be someone that is on board as far as treating occupational illnesses and injuries that are beyond the first aid care that the nurse can provide. You can certainly approach that physician about signing off on some standing orders. That can be very limiting, because some places have a whole laundry list of medications.

Q.--Does the liability issue change any when you have a company that is using their occupational health nurse as far as administering the medications to their employees, and now the company has several contract employees. They are not employees of that particular company, but they are employees of the contract service. Is there any difference in administering medications to those employees?

A.--That's a policy decision. Usually, you are responsible for the companies employees. As far as contract employees would be for emergency situations only, and for routine complaints, they are sort of on their own, unless there is something written in between the employer and the contractor to provide coverage for those employees.

Q. If you are administering hospital unit dose packages, can you give the person a little slip that gives side effects, or even a reproduction of the label or a supplemental slip that gives the information?

A.--I guess in that situation, I would use whatever the insert is and I would copy that so that you're not actually handwriting that out.

Q.--Is it possible to get the nurse or the physician out of the legal loop by simply stating something to the effect of these medications are here for your convenience and we recommend you follow the manufacturers recommendations?

A.--I guess you could. I don't see a whole lot of difference between that and the self-administered system.

Q.--We had received something in the mail saying it was against the law to put drugs in vending machines. Do you know anything about OSHA mandating or regulating that.

A.--No, I don't, but that would not be under the jurisdiction of OSHA, anyway. I think that some of that might vary from state to state. In traveling, I've been in a lot of hotels where I've seen OTC's available for purchase. It's really no different than going to a drug store or supermarket and buying that for myself.

Lastly, what requires the most occupational nursing involvement is to develop nursing guidelines for standing orders or protocols. So this involves the most nursing time and it's the most complex.

--Here she shows a slide and discusses developing standing orders and protocol for abrasion, or laceration--

In closing to review we have discussed the various laws that govern medications--the Nurse Practice Act, Pharmacy laws, the Medical Practice Act. We reviewed protocol, standing orders, nursing clinical guidelines, we have described various ways to provide OTC medications with varying levels of occupations health nursing involvement. I think it really is up to you to decide how you want to handle medications in your particular work site with OTC's based upon the resources that you have. With that I will be happy to answer any questions.

Q.--I'm from Florida and I just wanted to alert you all to a potential problem that we've had in the state of Florida for the last year, and that is that the Board of Medicine has questioned the validity of standing orders outside the hospital setting. There is some work going on now to try to resolve this issue, but I think you need to know that this probably will be spreading throughout the country. Also, as a supplier of OTC's and Rx medications, I would like to add one item to your log, and that is that each time you have a self-administered medication log, that you consider putting on the adverse or side effects of that med. So that before an employee actually signs out for that medication, he or she in fact knows what the side effects are.

Q.--Can you discuss the issue of liability of the employer in self-administered and vending machines, and are there court cases of where they have taken issue with the employer providing these medications?

A.--I have not heard of any liability issues regarding that. That was something that I've talked with the Board of Nursing about and with the pharmacy people, and the fact that if it comes in a vending machine and the person buying it is part of the issue where they have made that particular choice, it would be no different than if I go into a pharmacy or drug store or supermarket and purchase something. I think that is why you would want to have a contract set up so that it's really outside of the company. If the nurse is doing a restocking and checking of that, then that can be a liability issue.

Q.--I have a question about the unit dose packages and the size of the type that's on there. In most cases its not really readable. Is there any consideration of regulations of what size the type has to be?

A.--That I do not know. The type does vary. I agree it is hard to read. As employees get older, it becomes harder to read. That may be a concern.

Q.--Are there companies that provide the information on the packets in language other than English--possibly Spanish?

THE KANSAS PHARMACISTS ASSOCIATION
1308 SW 10TH AVENUE
TOPEKA, KANSAS 66604-1299
PHONE (785) 232-0439
FAX (785) 232-3764

ROBERT R. (BOB) WILLIAMS, M.S., C.A.E.
EXECUTIVE DIRECTOR

TESTIMONY

SB 533
Senate Public Health and Welfare Committee
February 18, 1998

My name is Bob Williams, I am the Executive Director of the Kansas Pharmacists Association. Thank you for this opportunity to address the committee regarding SB 533.

The Kansas Pharmacists Association is opposed to SB 533. We are opposed because we believe it is bad policy. The American Association of Poison Control Centers reported that in 1996 there were 1,137,295 accidental poisonings of children. Annually, the Kansas Pharmacists Association, in cooperation with the Kansas Department of Health and Environment, sponsor Poison Prevention Week whereby we educate the public regarding accidental poisonings. We teach parents to keep all medications out of the reach of children. We have gone to great lengths to prevent accidental poisonings by putting some medication in child resistant packaging. Accidental poisoning from aspirin has dropped considerably since the inception of child resistant packaging in 1972. Placing medication in vending machines will make it all too accessible to curious children who might go to the vending machine for candy but chose the brightly wrapped medication instead. While SB 533 requires "tamper evident" packaging, tamper evident packaging is NOT child resistant packaging.

Medication can be adversely affected by exposure to extreme temperatures. You heard testimony in this Committee regarding similar problems with the sale of over-the-counter

-over-

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medication at flea markets. The bill does not clarify who is responsible for the removal of outdated drugs or penalties for not removing outdated drugs in a timely manner. Additionally, there is no limit on what over-the-counter drugs can be placed in vending machines. The House is currently reviewing a bill that would reclassify some ephedrine containing over-the-counter medication to a schedule V drug, as was done with codeine containing drugs several years ago. In recent years there has been an increased number of prescription drugs which have been reclassified as over-the-counter (motrin, zantac, pepcid to name a few). These are powerful drugs and have no business being in vending machines where children have unmonitored access.

While it is true that over-the-counter medication can be purchased at a variety of retail markets, in each of these retail settings there are individuals who are monitoring the sale of over-the-counter medication (therefore, limiting the risk of accidental poisonings). Vending machines are usually in out of the way places, accessible by anyone, at any age as long as they have change.

We encourage the Committee to not adopt this bill.

Thank you.

Poison Lookout Checklist

The areas listed below are the most common sites of accidental poisonings in the home. Follow this checklist to learn how to correct situations that may lead to poisonings. If you answer "No" to any questions, fix the situation quickly.

Kitchen

	Yes	No
1. Do all harmful products in the cabinets have child-resistant caps?	☐	☐
Products like furniture polishes, drain cleaners, and some oven cleaners should have safety packaging to prevent children from accidentally opening the packages.		
2. Are all potentially harmful products in their original containers?	☐	☐
It is important that products are stored in their original containers for two reasons. Labels on the original containers often give first aid information if someone should swallow the product. If products are stored in containers like drinking glasses or pop bottles, someone may think it is food and swallow it.		
3. Are harmful products stored away from food?	☐	☐
If harmful products are placed next to food, someone may accidentally get a food and a poison mixed up and swallow the poison.		
4. Have all potentially harmful products been put up high and out of reach of children?	☐	☐
The best way to prevent poisoning is making sure it's impossible to find and get at the poisons. Locking all cabinets that hold dangerous products is the best poison prevention.		

Bathroom

	Yes	No
1. Did you ever stop to think that medicines could be poison if used improperly?	☐	☐
Many children are poisoned each year by overdoses of aspirin. If aspirin can poison, just think of how many other poisons might be in your medicine cabinet.		
2. Do your aspirins and other potentially harmful products have child-resistant caps?	☐	☐
Aspirins and most prescription drugs come with child-resistant caps. Make sure yours have them.		
3. Have you thrown out all out-of-date prescriptions?	☐	☐
As medicines get older, the chemicals inside them can change. What was once a good medicine may now be a dangerous poison. Flush all old drugs down the toilet. Rinse the container well and discard it.		
4. Are all medicines in their original containers with the original labels?	☐	☐
Prescription medicines may or may not list ingredients. The prescription number on the label will, however, allow rapid identification by the pharmacist of the ingredients. Without the original label and container, you can't be sure of what you're taking.		

Garage & Storage Areas

	Yes	No
1. Did you know that many things in your garage and storage areas can be poisons?	☐	☐
Death may occur when people swallow such everyday substances as charcoal lighter, paint thinner and remover, antifreeze, and turpentine.		
2. Do all these poisons have child-resistant caps?	☐	☐
3. Are they stored in their original containers?	☐	☐
4. Are the original labels on the containers?	☐	☐
5. Have you made sure that no poisons are stored in drinking glasses or pop bottles?	☐	☐
6. Are all these harmful products locked up and out of sight and reach?	☐	☐

When all your answers are "Yes," then continue this level of poison protection by making sure that whenever you buy potentially harmful products they have child-resistant caps and are kept out of sight and reach.

Printed on Recycled and Recyclable Paper

Source: US Consumer Product Safety Commission. Provided by: Kansas Department of Health and Environment and the Kansas Pharmacists Association.

TESTIMONY OF JIM SPERRY, RPAC
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
SENATE BILL NO. 622
FEBRUARY 18, 1998

Senator Praeger and Members of the Committee:

Thank you for the opportunity to appear before you this morning. My name is Jim Sperry. I am currently President of the Kansas Academy of Physician Assistants. On behalf of the Academy, I request your support of the passage of Senate Bill 622. Passage would change the regulatory level for physician assistants in Kansas from registration to licensure.

I am one of 280 Physician Assistants currently registered with the Kansas State Board of Healing Arts, and have been a practicing Physician Assistant for the past 14 years. During my tenure, I have worked in rural Kansas in family practice and emergency medicine.

Physician Assistants perform an integral part in the practice of medicine by administering necessary health care services to patients. We practice within the written protocols developed by our supervising physician, and adhere to the guidelines set forth by the State Board of Healing Arts through state statute, rules and regulations.

As a profession, Physician Assistants have traditionally provided health care in rural settings and inner cities, where access to health care has historically been limited. This tradition is true for Kansas; currently, over 50% of the 280 registered Physician Assistants in Kansas practice in communities of less than 20,000

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residents.

As an extension of the physician, a Physician Assistant administers health care to patients in the style and manner developed and directed by the supervising physician. As supporters of Senate Bill 622, we seek no change in that relationship or scope of practice, nor do we wish to limit the practice of any other heath care provider. Historically, the team of Physician and Physician Assistant has endured a unique relationship of mutual trust and respect. We want that to continue.

By changing to licensure, we are actually seeking a more rigid form of oversight, and higher standard of regulation. We believe Physician Assistants should be held to the same level of professional oversight as our supervising physicians. Patients expect health care providers who serve as a representative of their physician to be "licensed." They commonly believe that Physician Assistants are already licensed in the State of Kansas and are held to the same regulatory standards as their own physician. This is simply not the case.

It is our intent to maintain the highest quality of patient care, and ensure that Physician Assistants are properly trained, competent health care providers. Licensure would allow the state to regulate the Physician Assistant profession, and protect public health and safety in a standardized manner.

In addition to the reasons I have already mentioned, it is our belief that licensure of physician assistants will also:

- **Alleviate the shortage in primary medical care by improving the recruitment and retention of Physician Assistants as health care providers in medically underserved areas.**

- **Reduce some of the costs associated with primary health care by increasing access to health care through the efficient use of the Physician Assistant and our broad range of diagnostic and therapeutic training and skills.**

- **Enhance physicians' patient services by utilizing the Physician Assistant's high level of specialized skills and expertise.**

In closing, I would like to again thank you for the opportunity to appear today. On behalf of the Physician Assistants in Kansas, I ask that you support the proposed change to licensure for our effective and efficient profession. Without it, many rural and disadvantaged Kansans will be at risk for continued low cost, accessible health care.

For further reference, I have attached a document titled "Physician Assistant Facts" which summarizes the education, training and duties of a Physician Assistant. Please feel free to review it at your leisure.

In the meantime, I would be happy to answer any questions.

Thank you.

Physician Assistant Facts

American Academy of Physician Assistants
950 N. Washington St., Alexandria, VA 22314-1552
703/836-2272 • E-mail: *aapa@aapa.org* • Web site: *www.aapa.org*

What is a PA?

A physician assistant (PA) is a graduate of an accredited PA educational program who is authorized by the state to practice medicine with the supervision of a licensed physician. PAs are invaluable members of the health care team, working in concert with physicians and nurses to ensure the highest quality of care for their patients.

What can a PA legally do?

In 49 states (all but Mississippi), physicians may delegate to PAs those medical duties that are within the physician's scope of practice and the PA's training and experience, and are allowed by law.

Such duties include performing physical examinations, diagnosing and treating illnesses, ordering and interpreting lab tests, suturing wounds, assisting in surgery, providing patient education and counseling, and making rounds in nursing homes and hospitals. Forty-one states, the District of Columbia, and Guam authorize physicians to delegate prescriptive privileges to the PAs they supervise.

How was the first PA program started?

Recognizing that some residents of North Carolina had limited access to quality medical care, the chairman of the Department of Medicine at the Duke University Medical Center established a program in 1965 to educate ex-military corpsmen to practice medicine with physician supervision. These first students had received extensive health care training during their military careers. The education model for physician assistants was based in part on the chairman's experience with the fast-track training of doctors during World War II.

How does a person become a PA?

There are 104 accredited physician assistant educational programs in the United States. They are located at medical colleges and universities, teaching hospitals, and in the Armed Forces. All PA educational programs are accredited by one body, the Commission on Accreditation of Allied Health Education Programs.

Prior to admission, the typical PA student has a bachelor's degree and over 4 years of health care experience. PA education typically is 25 months in length, and PA students may take some of their classes with medical students.

To Practice As a Physician Assistant

Attend Accredited PA Program

The typical student has a bachelor's degree and over 4 years of health care experience.

Approximately 11 applications for each opening

108 weeks of instruction compared to 153 weeks for medical school

With Class/Lab Instruction

More than 400 hours in basic sciences, with over 70 hours in pharmacology + more than 149 hours in behavioral sciences + more than 535 hours of clinical medicine

Anatomy	Physiology
Pharmacology	Biochemistry
Clinical laboratory sciences	Microbiology
Physical diagnosis	Differential diagnosis
Pathophysiology	Medical ethics
Pathology	Behavioral sciences

Plus Clinical Rotations

More than 2,000 hours, with an emphasis on primary care

Family medicine	Internal medicine
Pediatrics	General surgery
Emergency medicine	Psychiatry
Ambulatory clinics	Obstetrics/Gynecology

Physicians' offices & acute/long-term care facilities

To Practice

Pass national PA certification exam developed by National Board of Medical Examiners & administered by the National Commission on Certification of PAs (Open only to graduates of accredited PA programs)

Obtain individual license from state medical board or PA regulatory committee

To Maintain Certification

Log 100 Continuing Medical Education credits over 2-year cycle

Reregister every 2 years

Sit for recertification exam every 6 years

1/14/98

4-4

What qualifies a PA graduate to practice?

Physician assistant education is competency-based. The focus is on the proven competency of a PA graduate to provide quality medical care, not on the type of degree earned.

In the 49 states with laws covering PA services, PAs are required to pass a national certifying examination developed by the National Board of Medical Examiners and administered by the independent National Commission on Certification of Physician Assistants. In addition to passing the exam, PAs are licensed or registered by the state in which they practice.

Approximately 31,000 PAs are currently in clinical practice. AAPA membership totals more than 26,000 graduates and students.

Where do PAs practice?

Approximately 70 percent of all practicing PAs are employed by physicians, group practices, HMOs, and outpatient clinics. Many hospitals employ PAs to help meet their clinical inpatient and outpatient needs. PAs are working in virtually every type of medical and surgical specialty.

What about reimbursement for services provided by PAs?

Employers receive reimbursement for physician services provided by PAs under Medicare and CHAMPUS. In addition, most private insurance companies and state Medicaid programs also reimburse employers for services provided by PAs.

And the quality of PA services?

Studies conducted by the Rand Corporation have found that PAs save as much as 20 percent of the costs of medical care, can perform at least 80 percent of the functions in an ambulatory care practice, and are widely accepted by patients. The congressional Office of Technology Assessment studied health care services provided by PAs and determined that "within their scope of practice, physician assistants provide health care that is indistinguishable in quality from care provided by physicians."

Professional liability insurance premiums are low because PAs have been involved in very few lawsuits.

PA Distribution by Community Size - 1997

Population	Percentage of PAs
• Less than 10,000	16.2%
• 10,000 to 49,000	17.4%
• 50,000 to 249,999	30.0%
• 250,000 to 1 million	18.7%
• More than 1 million	17.7%

Where to learn more about PAs

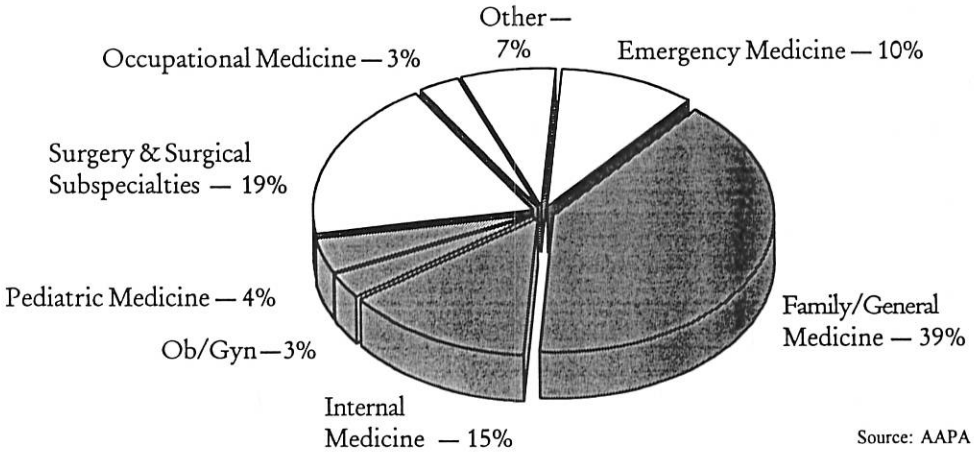
The American Academy of Physician Assistants' Web site at *http://www.aapa.org*.

"PAs/NPs: Forging Effective Partnerships in Managed Care Systems." S. Crane. *Physician Executive*, October 1995, Volume 21, Issue 10, p. 23-27.

The Roles of Physician Assistants and Nurse Practitioners in Primary Care. D. Clawson and M. Osterweis, editors. Association of Academic Health Centers, 1993.

Selected Annotated Bibliography of the Physician Assistant Profession, Fourth Edition. American Academy of Physician Assistants, 1993.

PAs Work in Virtually Every Area of Medicine and Surgery
(primary care specialties shaded)



Source: AAPA Annual PA Census, 1997

TESTIMONY
Senate Public Health and Welfare Committee
Senate Bill No. 622
February 18, 1998

To the Honorable Members of the Senate Committee on Public Health and Welfare

Dear Madam Chair and Members of the Committee:

I greatly appreciate the opportunity to appear before you to provide testimony regarding the licensure of physician assistants in the state of Kansas. My name is Loretta Hoerman and I am representing the Kansas Academy of Physician Assistants as president elect and chair of the legislative committee. I have been a physician assistant in a variety of settings in Kansas for the past 16 years, and I currently work in a Family Practice clinic in Topeka, Kansas.

Background on Physician Assistants

The physician assistant concept was born a little over thirty years ago when a group of physicians at Duke Medical School recognized the need for a health profession trained in the medical model who would work with physician supervision to extend patient access to health care. These physicians envisioned a medical school-type curriculum geared toward primary care, and focused to provide the appropriate education in an intense and uniquely designed training program. The Physician Assistant profession has retained this committment to the medical education model, and to team practice with the physician as the leader of the team. We fully intend to remain dependent practitioners.

Current Physician Assistant Training

Applicants to physician assistant programs must complete roughly two years of college courses in basic sciences and behavioral sciences as pre-requisites to PA training. Prior to admission to PA training programs, most PA students have a bachelor's degree and over 4 years of experience in health care. PA programs are roughly two-thirds the length of medical school (102 weeks vs. 152 weeks) with a curriculum that parellels medical school training with courses in anatomy, physiology, biochemistry, pharmacology, physical diagnosis, pathophysiology, microbiology, clinical laboratory sciences, behavioral sciences and medical ethics. Classroom courses are taught by physicians and educators who teach physicians. The subsequent clinical phase of training consists of classroom instruction and clinical rotations in medical and surgical specialties. These include family medicine, internal medicine, obstetrics and gynecology, pediatrics, general surgery, emegency medicine, and psychiatry. Physician assistant students complete 2,000 hours of supervised clinical practice prior to graduation.

National certification

Following graduation, all PAs must take and pass a single national certifying examination developed by the National Board of Medical Examiners and administered by the independent National Commission of Certification of Physician Assistants. To maintain

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certification PAs must log 100 hours of continuing medical education over a two year cycle and pass a recertification examination every 6 years.

National profile

There are over 30,000 PAs in the United States. Though found in every specialty, over half of PAs practice in primary care. Physician assistants are recognized in 49 states, the District of Columbia, and Guam. Mississippi is the only state which does not formally recognize PAs. Physician assistants are commissioned officers in the U.S. military. PAs are also employed by the U.S. State Department and work overseas to provide healthcare to U.S. employees and their dependents.

Physician assitants are licensed in 26 states, registered in 8 and certified in 16 states. Eight states are pursuing legislative change to licensure this year. Of our neighboring states, Nebraska and Oklahoma are licensed, Missouri is registered but has currently has well received legislative efforts to change to licensure. Colorado PAs are certified.

Physician Assistants in Kansas

There are approximately 280 physician assistants registered with the Kansas Board of Healing Arts. Of these PAs, 56% practice in communities of less than 10,000 population and 40% practice in medically underserved communities. Sixty-two percent of Kansas PAs practice in primary care.

Several national studies have repeatedly shown that PAs, practicing as part of a supervising physician/PA team, provide high quality health care which is cost effective. In 1996, a study done by the American Academy of Physician Assistants found that the average PA sees 20 outpatients a day. Physician acceptance and patient satisfaciton have been high.

Licensure for Kansas Physician Assistants

In 1995, the Pew Health Professions Commission Taskforce on Health Care Workforce Regulation recommended that "States should use standardized and understandable language for health professions regulation and its functions to clearly describe them for consumers, provider organizations, businesses, and the professions." The Taskforce specifically recommends that the term "licensure" be used for public and state regulation of health professions.

The public expects licensure of health care professionals. As extensions of our supervising physicians, PAs must be held to the same credentialling standard as our physicians. Licensure is the most rigorous standard of regulation. As PAs we are not asking for more lenient regulations, rather the higher regulatory credential in order to protect the public's health, safety and welfare. Our nurse practitioner colleagues are licensed, and because we have similar scopes of practice we should have similar levels of credentialling.

Licensure for Kansas PAs is will not affect the scope of practice or the principle of and commitment to dependent practice. We are not seeking to limit the practice of any other health professional or expand our own.

Licensure will afford increased access to health care for all Kansans. In some locations a PA is the only primary care provider available on a daily basis. In some areas there may be too many patients for one physician but not enough patients for two physicians. In this setting a PA may provide relief to a solo physician so that the physician will remain in the community rather than being exhausted by that community's health care needs and moving to a less demanding setting (and leaving the community without convenient access to health care).
Some third party payers deny payment to supervising physicians for care provided by a PA simply because PAs are not "licensed" health care providers. Similarly, many categories of health refer to "licensed providers" and are actually meant to include PAs, but instead exclude us because we are registered.

In closing, I want to emphasize that licensure in no way creates independent practice for physician assistants. The definition of licensure does not include any reference to independent or dependent practice. The definition of physician assistants inextricably links us to our supervising physicians. Physician assistants are not seeking independent reimbursement and licensure will not allow PAs to be reimbursed independently. Once again, PAs remain committed to practicing dependently with physician supervision and are proud of our affiliation with physicians. We are also proud of the service that we are able to provide to Kansans.

Thank you again for the opportunity to express these opinions in behalf of the Kansas Academy of Physician Assistants.

KMS
KANSAS MEDICAL SOCIETY

February 18, 1998

TO: Senate Public Health and Welfare Committee

FROM: Meg Draper M. Draper
Director of Government Affairs

SUBJ: SB 622: Licensure of Physician Assistants

The Kansas Medical Society appreciates the opportunity to testify this morning on SB 622, which would change the level of credentialing for physician assistants from registration to licensure. KMS supports the changes contained in the bill.

Physician assistants and their supervising physicians enjoy a strong, positive relationship. By law, physician assistants are dependent practitioners, working under the direction and supervision of their responsible physician pursuant to a written protocol. KMS is assured that this relationship would be preserved under this bill. The PAs have assured KMS that they are not seeking independent practice and that there is no initiative to move toward independent practice in Kansas. In fact, new section 8 states specifically that PAs practice in a dependent role with a responsible physician. Additionally, PAs are not seeking any change in their scope of practice with this bill.

PAs have expressed frustration with the fact that a couple of third party payers doing business in Kansas reimburse only "licensed health care providers" and that because PAs are not licensed, they are denied reimbursement for the services they perform. Consequently, physicians are less able to utilize their PAs to provide certain health care procedures. Discussions between PAs, their supervising physicians and these insurance companies have not solved the problem that currently exists. Licensing PAs would hopefully eliminate this barrier to adequate reimbursement for PAs and enable physicians to more effectively utilize PAs in their offices.

Thank you very much for considering our comments.

623 SW 10th Ave. • Topeka KS 66612-1627 • 785.235.2383 • 800.332.0
Western Kansas office • 108 E 12th St. • Hays KS 67601 • 785.625.8215 • 80(

Senate Public Health & Welfare
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40-3401. Definitions. As used in this act the following terms shall have the meanings respectively ascribed to them herein.

(a) "Applicant" means any health care provi

'Basic coverage" means a policy of professional liability insurance required to be maintained by each health care provider pursuant to the provisions of subsection (a) or (b) of K.S.A. 40-3402 and amendments thereto.

(c) "Commissioner" means the commissioner of insurance.

(d) "Fiscal year" means the year commencing on the effective date of this act and each year, commencing on the first day of that month, thereafter.

(e) "Fund" means the health care stabilization fund established pursuant to subsection (a) of K.S.A. 40-3403 and amendments thereto.

(f) "Health care provider" means a person licensed to practice any branch of the healing arts by the state board of healing arts, a person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts, a person engaged in a postgraduate training program approved by the state board of healing arts, a medical care facility licensed by the department of health and environment, a health maintenance organization issued a certificate of authority by the commissioner of insurance, a podiatrist licensed by the state board of healing arts, an optometrist licensed by the board of examiners in optometry, a pharmacist licensed by the state board of pharmacy, a licensed professional nurse who is authorized to practice as a registered nurse anesthetist, a licensed professional nurse who has been granted a temporary authorization to practice nurse anesthesia under K.S.A. 65-1153 and amendments thereto, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a Kansas limited liability company organized for the purpose of rendering professional services by its members who are health care providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is or-

l, a partnership of persons who are health c roviders under this subsection, a Kansas not-for-profit corporation organized for the pur-

with the exception of physician assistants

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pose of rendering professional services by persons who are health care providers as defined by this subsection, a dentist certified by the state board of healing arts to administer anesthetics under K.S.A. 65-2899 and amendments thereto, a physical therapist registered by the state board of healing arts, a psychiatric hospital licensed under K.S.A. 75-3307b and amendments thereto, or a mental health center or mental health clinic licensed by the secretary of social and rehabilitation services, except that health care provider does not include (1) any state institution for the mentally retarded, (2) any state psychiatric hospital, (3) any person holding an exempt license issued by the state board of healing arts or (4) any person holding a visiting clinical professor license from the state board of healing arts.

(g) "Inactive health care provider" means a person or other entity who purchased basic coverage or qualified as a self-insurer on or subsequent to the effective date of this act but who, at the time a claim is made for personal injury or death arising out of the rendering of or the failure to render professional services by such health care provider, does not have basic coverage or self-insurance in effect solely because such person is no longer engaged in rendering professional service as a health care provider.

(h) "Insurer" means any corporation, association, reciprocal exchange, inter-insurer and any other legal entity authorized to write bodily injury or property damage liability insurance in this state, including workers compensation and automobile liability insurance, pursuant to the provisions of the acts contained in article 9, 11, 12 or 16 of chapter 40 of Kansas Statutes Annotated.

(i) "Plan" means the operating and administrative rules and procedures developed by insurers and rating organizations or the commissioner to make professional liability insurance available to health care providers.

(j) "Professional liability insurance" means insurance providing coverage for legal liability arising out of the performance of professional services rendered or which should have been rendered by a health care provider.

(k) "Rating organization" means a corporation, an unincorporated association, a partnership or a individual licensed pursuant to K.S.A. 40-930 to 40-1114, or both, and amendments thereto, to make rates for professional liability insurance.

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(l) "Self-insurer" means a health care provider who qualifies as a self-insurer pursuant to K.S.A. 40-3414 and amendments thereto.

"Medical care facility" means the same w ed in the health care provider insurance availability act as the meaning ascribed to that term in K.S.A. 65-425 and amendments thereto, except that as used in the health care provider insurance availability act such term, as it relates to insurance coverage under the health care provider insurance availability act, also includes any director, trustee, officer or administrator of a medical care facility.

(n) "Mental health center" means a mental health center licensed by the secretary of social and rehabilitation services under K.S.A. 75-3307b and amendments thereto, except that as used in the health care provider insurance availability act such term, as it relates to insurance coverage under the health care provider insurance availability act, also includes any director, trustee, officer or administrator of a mental health center.

(o) "Mental health clinic" means a mental health clinic licensed by the secretary of social and rehabilitation services under K.S.A. 75-3307b and amendments thereto, except that as used in the health care provider insurance availability act such term, as it relates to insurance coverage under the health care provider insurance availability act, also includes any director, trustee, officer or administrator of a mental health clinic.

(p) "State institution for the mentally retarded" means Winfield state hospital and training center, Parsons state hospital and training center and the Kansas neurological institute.

(q) "State psychiatric hospital" means Larned state hospital, Osawatomie state hospital, Rainbow mental health facility and Topeka state hospital.

(r) "Person engaged in residency training" means:

(1) A person engaged in a postgraduate training program approved by the state board of healing arts who is employed by and is studying at the university of Kansas medical center only when such person is engaged in medical activities which do not include extracurricular, extra-institutional medical service for which such person receives extra ensation and which have not been appro / the dean of the school of medicine and the executive vice-chancellor of the university of

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Kansas medical center. Persons engaged in residency training shall be considered resident health care providers for purposes of K.S.A. 40-3401 *et seq.*, and amendments thereto; and

(r) person engaged in a postgraduate training program approved by the state board of healing arts who is employed by a nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine or who is employed by an affiliate of the university of Kansas school of medicine as defined in K.S.A. 76-367 and amendments thereto only when such person is engaged in medical activities which do not include extracurricular, extra-institutional medical service for which such person receives extra compensation and which have not been approved by the chief operating officer of the nonprofit corporation or the chief operating officer of the affiliate and the executive vice-chancellor of the university of Kansas medical center.

(s) "Full-time physician faculty employed by the university of Kansas medical center" means a person licensed to practice medicine and surgery who holds a full-time appointment at the university of Kansas medical center when such person is providing health care.

(t) "Sexual act" or "sexual activity" means that sexual conduct which constitutes a criminal or tortious act under the laws of the state of Kansas.

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Christian Science Committee on Publication For Kansas

820 Quincy Suite K
Topeka, Kansas 66612

Office Phone
913/233-7483

To: Senate Committee on Public Health and Welfare

Re: SB 622

We request that SB 622 be amended as follows:

> On page 11, lines 35-37, strike all after "(c)" on line 35, and replace with **"Individuals practicing religious beliefs which provide for reliance on spiritual means alone for healing."**

The language to be replaced comes from the Kansas healing arts act and has been in place for many years. At the appropriate time, we will also request that the same change be made in that act.

The provision in this bill, as copied from the healing arts act, has served very well in the past and we expect that it will continue to serve if you do not choose to make the requested change. However, the recommended change will more clearly define who is to be excluded from the provisions of the act.

Keith R. Landis

Keith R. Landis
Committee on Publication
for Kansas

Senate Public Health & Welfare
Date: 2-18-98
Attachment No. 7

KANSAS BOARD OF HEALING ARTS

BILL GRAVES
Governor

235 S. Topeka Blvd.
Topeka, KS 66603-3068
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(785) 368-7102

MEMORANDUM

TO: Senate Committee on Public Health and Welfare

FROM: Lawrence T. Buening, Jr.
Executive Director

DATE: February 18, 1998

RE: **SENATE BILL NO. 622**

Senator Praeger and members of the Committee, thank you for allowing me the opportunity to appear before you on behalf of the State Board of Healing Arts regarding Senate Bill No. 622. At its meeting last Saturday, the Board had the opportunity to review and discuss this bill. The Board voted to oppose the bill primarily because the bill changes the credentialing level of physician's assistants from registration to licensure.

Senate Bill No. 622 does contain several provisions that have been supported by the Board for a number of years. Deleting the possessive apostrophe "s" in the term physician's assistant makes practical and grammatical sense. Also, since physician's assistants are specifically allowed to provide medical services, it seems appropriate that conduct for which disciplinary action can be taken would parallel grounds for discipline if committed by a physician.

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR

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Senate Public Health & Welfare
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Since its creation more than 40 years ago, the Board has only licensed individuals who qualify to use the term "Doctor" in the health care setting. In 1957, the Board was created to regulate the professions of medicine and surgery, osteopathic medicine and surgery, and chiropractic. Each of these professions had earned the degree of doctor through their educational experiences. In 1975, the Board commenced regulation of podiatric doctors. Each of these licensed professions has the ability to independently examine, diagnose and treat patients without the intervention, supervision, direction or order from any other health care professional. On the other hand, the other seven professions regulated by the Board cannot independently diagnose and treat individuals without authority from a licensee of the Board. This two-tier credentialing system has separated independent practice, i.e. registration. New Section 8 of the bill specifically recognizes that physician assistants practice in a dependent role with a responsible physician.

Another characteristic that has traditionally separated licensed professions from registered or certified professions is the granting of temporary permits or licenses. Under both the Healing Arts Act and the Podiatry Act, those four licensed professions can only receive a temporary permit or license to practice independently once the individuals have met all qualifications for licensure, including passage of the required examinations. New Section 7 of this bill would continue to allow physician assistants to receive temporary licenses prior to meeting all the criteria necessary for permanent licensure.

In conclusion as this testimony addresses the change in credentialing level from registration to licensure, I would like to point out the language in New Section 6. This is the section that makes it unlawful to "engage in the practice as a physician assistant" unless licensed. It also prohibits usage of titles, abbreviations, etc. This seems much more similar to the definition of registration than licensure as those terms are defined in the Kansas Act for Credentialing Health Care Professions (K.S.A. 65-5001 *et seq.*).

It this Committee wishes to recommend this bill favorably for passage, the Board would like you to consider three areas that seem to have some conflict or cause confusion. New Section 3(a)(2) requires applicants to either present proof of completion of an approved course of education and training or to present proof the applicant has acquired experience while serving in the armed forces. However, new Section 1(d) defines a physician assistant as a skilled person who is qualified by academic training. These two sections appear to be inconsistent. Also, I should

note that although new Section 4(b) allows a physician assistant to practice under a professional corporation, the professional corporation code does not list physician assistant as a qualified person who can form or belong to a professional corporation. Finally, in new Section 8(b), the term "supervising physician" is used. This term is not defined anywhere in the bill and the Board believes this should be "responsible physician".

Thank you for the opportunity to appear before you. I would be happy to respond to any questions.