

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 19, 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:

Jerry Slaughter, Kansas Medical Society
Patrick J. Hurley, Kansas Academy of Family Physicians
Carolyn Bloom, Kansas Physical Therapy Association
Keith Landis, Christian Science Committee on Publication for Kansas
Emily Taylor, member, Kansas Board of Healing Arts
Donald Bletz, M.D., member, Kansas Board of Healing Arts
Harold Riehm, Kansas Association of Osteopathic Medicine

Others attending: See attached list

Hearing on SB 655 - Board of Medical Professions

Jerry Slaughter, Kansas Medical Society, testified before the Committee in support of **SB 655** which would divide the Healing Arts Board into two agencies. Mr. Slaughter noted that the bill would create a new Board of Medical Professions which would be responsible for nine of the eleven professions currently regulated by the Healing Arts Board. Only chiropractors and podiatrists would remain under the Healing Arts Board. It was pointed out that one reason for dividing the Healing Arts Board is that the current configuration hampers its effectiveness and results in inconsistent application of the law. Mr. Slaughter also pointed out that opponents will raise the fiscal impact argument, but there is none to taxpayers, since the agencies are fee funded. He felt that if the Committee did not want to move the groups covered in the present draft of the bill, make it apply to just physicians, and then allow the bill to "sunset" in five years if they have not produced a better record of protecting the public, promoting higher quality of care, and disciplining and regulating themselves. (Attachment 1)

Patrick J. Hurley, Kansas Academy of Family Physicians, expressed his support for **SB 655** and noted that there is considerable logic to creating a separate Board that licenses only physicians and those providers who are directly controlled by or whose activities are related to physicians such as physicians assistants. Mr. Hurley felt that those groups whose scope of practice is different or not statutorily related should be under a separate licensing authority as noted in his written testimony. (Attachment 2)

Carolyn Bloom, representing the Kansas Physical Therapy Association, also testified in support of **SB 655** because of the following issues: (1) health care professions should regulate their peers, (2) a physical therapist should be a voting member of the Board that regulates physical therapists and their assistants, and (3) physical therapists and medical physicians work closely to provide rehabilitation care to patients in Kansas and should work closely on state regulatory boards to protect the public and shape health policy in Kansas. (Attachment 3)

Keith Landis, Christian Science Committee on Publication, testified before the Committee in support for an amendment that would replace language on page 25, lines 26-28, and on page 39, lines 10-12 with the following: "Individuals practicing religious beliefs which provide for reliance on spiritual means alone for healing" as shown in his written testimony. (Attachment 4)

Emily Taylor, member of the Board of Healing Arts, submitted written testimony in opposition to **SB 655** and urged the Committee to maintain the present composition of the Board as in the best public interest. Ms. Taylor noted that having practitioners on the Board from the four health care groups that are licensed to practice independently, along with public members who are appointed because they are not members of the health profession, assures that diverse points of view are trained on every issue. (Attachment 5)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S
Statehouse, at 10:00 a.m. on February 19, 1998.

Donald Bletz, M.D., member of the Healing Arts Board, testified before the Committee in opposition to **SB 655** and noted that if the bill would be enacted into law, it would replace a highly diversified group of people with a group of more narrowly focused people who think and act alike in an almost clone-like fashion. (Attachment 6) Dr. Bletz commented during Committee discussion that after the Board reviewed the bill, they felt diversification of members on the Board was a good thing because it would provide better oversight.

Harold Riehm, Kansas Association of Osteopathic Medicine, expressed opposition to **SB 655** because he felt the present Board has protected the health-consuming public well, has make every effort to foster good communications and cooperation with the providers it regulates, and that the composition of the Board with the presence of MD, DO, and DC all share the characteristics of patients being able to see them without referral or other "responsible" physicians involved. (Attachment 7)

Written testimony in support of **SB 655** was also received from the Kansas Academy of Physician Assistants. (Attachment 8)

Committee discussion related to composition of the present Board and sunseting of laws in 1992 (KGOAL).

Because of lack of time and in order to allow other conferees to testify on the bill, the Chair announced that continuation of **SB 655** will be held at the next meeting.

Adjournment

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

The next meeting is scheduled for February 20, 1998.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: 2-19-98

NAME	REPRESENTING
Patrick J. Hurley	KrAcademy Family Physicians
Mark Felfel	Bd of Healing Arts
CAROL RIZEM	AAOM
LARRY BUENINGA	BD OF HEALING ARTS
Ron Zor/1/2/16	" " " "
Donald B. Glatz, M.D.	" " " "
Emily Taylor	" " " "
Mardee Bertholf	" " " "
Pat Liddbottom	" " " "
Gary Roberts	IS Opt 958A
Steve KERNANZY	KPTA
Carolyn Bloom	KATA
CBSh	KPTA
Edward D. [unclear] Jr.	KCA
[unclear] DC	KCA
Melissa Kipp	KSBHA
Marsha Schenck	KBHA
Gloria Sachs	AmAPA Inc.
Duffy Johnson	KBHA

Amy [unclear] Crouchfield myself
 Glenn M. Sabell KTLA

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: 2/19/98

NAME	REPRESENTING
J. Fisher	KPHA
Bete Mancey	KBHA
Kevin LaChance	KBHA
Esther Karviki	ESU school of Nursing
AMANDA JOHNSON	ESU - school of nursing
Kandi Oberle	ESU - school of nursing
Warrel Fox D.	KCA
James M. Crowl	KCA
Judy Pope	KCA
Kelena P. in	KCA
Wen Draper	Kansas Medical Society
Anne Walshree	KSBN / ESU Nsg. Student
Brenda K Chamberlain	KSBN / ESU NSG Student
Pat Johns	KSBN
D. H. Kover	KPHA KPHA
Doug Smith	KAPA
KEITH R LANDIS	CHRISTIAN SCIENCE CONGREGATION ON PUBLICATION FOR KS
Jerry Gaugarten	KMS



KANSAS MEDICAL SOCIETY

February 19, 1998

TO: Senate Public Health and Welfare Committee

FROM: Jerry Slaughter
Executive Director

SUBJECT: SB 655; relating to the Board of Medical Professions

The Kansas Medical Society appreciates the opportunity to appear today in support of SB 655, which would divide the Healing Arts Board into two agencies. This bill is quite lengthy - almost every statutory reference to the current Board of Healing Arts needed to be changed - but the concept is really very simple. A new Board of Medical Professions is created, which will be responsible for nine of the eleven professions currently regulated by the Healing Arts Board. Only chiropractors and podiatrists would remain under the Healing Arts Board. Before we explain our reasons for introducing this bill, a brief background discussion and overview of the legislation is in order.

The nine groups which would be regulated by the new board are: physicians (MDs & DOs), physician's assistants, physical therapists, PT assistants, occupational therapists, OT assistants, respiratory therapists and athletic trainers. Each of these groups, except athletic trainers, has their scope of practice tied statutorily to physicians. Consequently, we believed it reasonable to keep those groups together. Consider the following excerpts from current law:

- "physician's assistant means a person...who is qualified by academic training to provide patient services *under the direction and supervision of a physician....*"(K.S.A. 65-2897a);
- "physical therapist...may initiate treatment *only after consultation with and approval by a physician....*"(K.S.A. 65-2901);
- "respiratory therapy is a health care profession whose practitioners are employed *under the supervision of a physician....*"(K.S.A. 65-5502); and
- "occupational therapy is a health care profession whose practitioners...are employed *under the supervision of a physician....*"(K.S.A. 65-5402).

When we were developing the concept of this new board we were informed that podiatrists wanted to remain under the Healing Arts Board with the chiropractors. We assumed it was because both groups are pushing legislation that would allow them to advertise themselves "physicians," and podiatrists felt more comfortable working with the chiropractors because of that common interest. Since this bill has been introduced, we have heard informally that the podiatrists may have changed their position. In any event, based on their earlier comments to us, under the current version of this bill, podiatrists would remain with the chiropractors in the Healing Arts Board.

Last fall we invited all the groups currently regulated by the Healing Arts Board, except chiropractors, to a meeting to explain the concept of this legislation. We have been criticized for not inviting the chiropractors to the meeting. Frankly, we knew they were opposed to the change, and our primary objective was to have a separate board anyway. We started this effort with the goal of creating a new board that licensed only physicians, and physician's assistants, because the two are tied so closely by statute. After discussions with the other groups, we agreed to include those groups that have explicit statutory scope of practice linkages with physicians. Chiropractors and podiatrists have scopes of practice that are not linked to supervision or direction from a physician.

Let me make it clear that nothing in our proposal is directed at any individual associated with the Board of Healing Arts. We are not advocating change because of any individual Board member or staff person. We just believe a different structure will work better in today's environment.

While the bill is 162 pages long, it is really a very simple change in policy. In fact, outside of enacting a new Medical Practice Act (which mirrors the current statutes governing physicians in the Healing Arts Act) and dividing the Healing Arts Board, the only other significant policy changes involve board composition. One reduces the number of terms appointees of the board can serve, from three 4 year terms to two 4 year terms. Another gives board representation for the first time to physical therapists, occupational therapists, physician's assistants, and respiratory therapists. A third change increases MD representation on the board from 5 to 6, reflecting the fact that there are ten times as many MDs licensed as DOs. The last change requires that the vice president and president of the new board must be physicians. None of these changes alone represent major departures from existing policy.

The overwhelming majority of the provisions in SB 655 merely make non-policy, terminology changes to all the statutes which refer to licensees of the Healing Arts Act. Attached to our testimony is a section by section summary of the bill.

Probably your first question is "why?" Why divide a board that has operated in the current configuration for 40 years? We have a few questions, as well. Why not? What is so special about regulating chiropractors and physicians under one board? Kansas is one of only three states (Virginia and Illinois are the others) that regulates chiropractors and physicians under the same board. Are the other 47 states not doing a good job of protecting the public by having separate boards? Do the Kansas dental, pharmacy, nursing and optometry boards not do a good job just because they license only single, or scope-of-practice-linked professions? Would protection of the public and the quality of regulation drop if chiropractors and physicians were no longer regulated together? Other states that regulate separately seem to be doing a good job of protecting the public. Obviously, there is nothing magic about our current board structure.

✓ Our fundamental reason for wanting to divide the Healing Arts Board is that we believe the current configuration hampers its effectiveness, and results in inconsistent application of the law. Asking two professions so different in philosophy and training to police each other's professional behavior and clinical competence invites politicizing both process and outcome. A case in point is the contentious debate we are having with the chiropractors over the use of the term "physician." In spite of an attorney general's opinion and a very clear district court ruling that chiropractors could not use the term, the Board has repeatedly refused to enforce the law. The message that sends to physicians is that the politics of chiropractors and physicians serving together gets in the way of making pretty basic decisions. Is the Board free to pick and choose which laws it will enforce? If the Board doesn't like a particular application of the law, it should seek to change it, not simply ignore it.

We do not intend to cite a laundry list of specific complaints and areas of disagreement we have with the Board, although there are many. Our reasons for wanting the change have to do with the broader picture, the overall approach to regulating these health professionals. We believe a separate board will result in better, more consistent regulation, minimizing the interprofessional politics which clearly are a major factor in the board operation at present.

Most everybody associated with the Board in some official capacity today will oppose this change. They like the safety of the status quo, and change is scary. Fine. Let them stay. We are not asking you to move anyone that doesn't want to be moved. Opponents will raise the fiscal impact argument, but there is none to taxpayers, since the agencies are fee funded. The dentists, pharmacists and optometrists operate single professional boards quite well, and within affordable limits. Opponents will also argue that the current board structure allows the groups to "watchdog" each other. That is nonsense. In the first place, it doesn't happen. Second, is it really the responsibility of chiropractors to keep physicians in line, and vice versa?

✓ At a minimum, at least give physicians the opportunity to regulate themselves under their own board. If you don't feel comfortable moving the groups covered in the present draft of the bill, make it apply to just physicians. We had hoped the osteopathic association would share our sentiments, but they don't, and they should not be forced to leave the Healing Arts Board against their will. If you allow us this opportunity, we will dedicate ourselves to making the new board one the state will be proud of. ✓ We will see that the new board is adequately funded, so it can do its job vigorously, yet fairly. Give us five years and then review what we have accomplished. If we have not produced a better record of protecting the public, of promoting higher quality care, of disciplining and regulating physicians, by any measure you want to apply, then "sunset" us back into the Healing Arts Board. Just give us that chance.

We urge your support of SB 655. Thank you for considering our comments.

Summary of the Provisions of SB 655

Sections 1-51: Creates the Medical Professions Act and a State Board of Medical Professions as its governing body. It essentially mirrors the current Healing Arts Act and makes four changes in policy:

- Section 13(b) gives physicians' assistants, physical therapists, occupational therapists and respiratory therapists each a seat on the new Board. These groups currently do not have a seat on the Healing Arts Board.
- Section 13(b) gives MDs six seats on the new Board. The Healing Arts Board has five MD representatives.
- Section 13(c) allows members of the Board of Medical Professions to be appointed by the Governor for two successive four-year terms. The Healing Arts Act allows appointment to the board for three successive four-year terms.
- Section 13(e) states that the president and vice-president of the Board of Medical Professions be physicians. The Healing Arts Act does not include this language.

Sections 52-63: Amends the Healing Arts Act to reflect the creation of the Board of Medical Professions and the fact that physicians would no longer be licensed by the Healing Arts Board.

The remaining sections of the bill make technical changes to other laws, adding references to the Medical Practice Act and Board of Medical Professions.

Sections 64-69: Physician assistants

Sec. 70: Confidentiality of identifying information in complaint made to a licensing agency

Sec. 71: Attorney fees that may be collected in medical malpractice lawsuits

Sec. 72: Group homes and disabled persons

Sec. 73: District coroners

Sec. 74: Child Health Review Board

Sec. 75: Children's immunizations

Sec. 76: Reporting of suspected cases of child abuse or neglect

Sec. 77: Adult care homes

Sec. 78: Adult family homes

Sec. 79-80: Insurance mandate laws

Sec. 81-84: Reporting by malpractice insurers

Sec. 85: Mutual health care liability companies (KaMMCO)

Sec. 86: Nonprofit medical and hospital service corporations

Sec. 87: Mammogram and pap smear insurance coverage

Sec. 88: Utilization review

Sec. 89: Kansas Automobile Injury Reparations Act

Sec. 90: Health maintenance organizations

Sec. 91-94: Health Care Stabilization Fund

Sec. 95: Patient Protection Act

Sec. 96: Nuclear energy and radiation development

Sec. 97: Care and treatment of mentally ill persons

Sec. 98: Statutes of limitations

Sec. 99: Code of civil procedure

Sec. 100-101: Reporting requirements to KDHE

Sec. 102: Mandatory testing of certain persons to determine whether a sexual offense was committed

Sec. 103: Children with special health care needs

Sec. 104-105: Prescription of laetrile

Sec. 106: Optometrists

Sec. 107: Tattooing and body piercing

Sec. 108: Podiatrists

Sec. 109: Visiting professors' temporary licenses

Sec. 110: Natural Death Act

Sec. 111-112: Hospital and provider reporting requirements for acts which could be grounds for disciplinary action.

Sec. 113: Temporary education licensees

Sec. 114: Visiting clinical professor license

Sec. 115: Charitable health care provider license

Sec. 116: Reporting of change in licensee's address

Sec. 117-126: Physical therapists

Sec. 127: Treatment of alcoholism and intoxication

Sec. 128: Controlled substances act

Sec. 129: Liability limitations for investigating or communicating information of care being provided by health care providers

Sec. 130: Peer review laws

Sec. 131: Risk management laws

Sec. 132: Do not resuscitate orders and directives

Sec. 133: Treatment of drug abusers

Sec. 134-136: Occupational therapy act

Sec. 137-139: Respiratory care act

Sec. 140: Emergency medical services act

Sec. 141: Health care data governing board law

Sec. 142-144: Athletic trainers

Sec. 145-148: Medical student loan program

Sec. 149-152: Disability benefits for public employees

Sec. 153: Budgets of state agencies

Sec. 154: Kansas Tort Claims Act

Sec. 155: Kansas Medical Residency Bridging Program

Sec. 156: Property and ad valorem tax exemptions

Sec. 157: Sales tax exemptions

Sec. 158: Repealing section

Sec. 159: Effective date

PRESENTATION TO
SENATE PUBLIC HEALTH AND WEALFARE COMMITTEE

BY

Patrick J. Hurley

on behalf of the
Kansas Academy Family Physicians

Senate Bill 655

Madam Chairperson, and members of the committee.

I am Pat Hurley appearing on behalf of the Kansas Academy Family Physicians and would like to express the family physicians support for SB 655 to create a new Board of Medical Professions.

The bill appears lengthy and complicated but actually establishes a very simple goal of creating a new Board of Medical Professions. This board would be responsible for licensing and regulating physicians and certain other provider groups, while the Board of Healing Arts would continue to regulate the remaining groups.

It is our understanding that as the bill currently stands only Chiropractors and Podiatrists would be under the Healing Arts Board, however, the configuration would remain a final decision for the Legislature.

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

We can speak only for family physicians and strongly believe that physicians and those groups directly related to them should be under a single board separate from other groups which either do not chose to be so regulated or whose scope of practice does not directly relates to the physicians.

In their testimony the Kansas Medical Society has provided much greater detail describing these relationships and we fully concur in that analysis. We believe there is considerable logic to creating a separate Board that licenses only physicians and those providers who are directly controlled by or whose activities are related to physicians such as physicians assistants. We just as strongly believe that those groups whose scope of practice is different or not statutorily related should be under a separate licensing authority.

Frankly, we believe there has not been a great deal of logic over the years relating to the evolution of the Board of Healing Arts and all the various groups which it now regulates. Rather it has grown more by accident or default by adding one group after another without serious consideration being given as to whether that approach really makes sense or serves the public interest. As pointed out in KMS's testimony that has not been the approach taken by the Legislature in other areas such as dental, pharmacy, and nursing boards. The Legislature has seen fit and concluded that keeping those groups separately regulated has indeed been in the public interest. We think it is time to rethink how we got to where we are and if that is in the public's best interest today.

As you are well aware health care is changing dramatically and the public is getting extremely confused about the current state of health care delivery. And yet in that state of flux one constant is the obligation of the physician community to safeguard the care of their patients. That is the real issue, how best do we assure that we meet that

obligation today. We believe that this assurance and clarity can best be achieved by returning to what we believe was the original intent of the Legislature in creating a board to license and regulate physicians. That was to guarantee that this obligation is continuously met. If the Legislature was making this decision in the first instance today we can not believe that they would lump together all of the various groups that have now been thrown under the jurisdiction of the Board of Healing Arts. We believe that would particularly not be done today in view of the rapid changes that are occurring in the health care delivery field that we are all seeing.

If anything the public is increasingly apprehensive about these changes that continue to occur and it should be the intent of the Legislature to avoid further blurring of the public's ability to distinguish between various groups of healthcare providers.

What better time or more persuasive reason could there be to redraw some of these clear lines of difference than by creating a new separate Board of Medical Professions as envisioned in SB 655.

We sincerely believe it is no longer in the best interest of our patients and of the general public to allow politics and battles between various provider groups to only further add to that confusion as the public attempts to understand how they can continue to acquire the best possible medical service and the assurance that it is being properly regulated by the state.

For all of these reasons we support SB 655 and would be happy to attempt to answer any questions.

KANSAS PHYSICAL THERAPY ASSOCIATION
1200 WEST 10TH STREET
TOPEKA, KS 66601
(785) 357-8700

February 19, 1998

TO : Senate Public Health & Welfare Committee

FROM : Carolyn Bloom, PT
1045 S.W. Gage Blvd.
Topeka, KS 66604-1780
(785) 273-7700

I thank Chairwoman Praeger and the esteemed members of the Senate Public Health & Welfare Committee for allowing me to address Senate Bill 655, regarding Board of Medical Professions. I have served on the Board of Directors of the Kansas Physical Therapy Association for the past twenty-three years, including the role of President and I was Vice-President of the Physical Therapy Advisory Committee to the Kansas State Board of Healing Arts for seven years.

The Kansas Physical Therapy Association urges your support
✓ of the following issues:

- 1) Health care professionals should regulate their peers.
- 2) A physical therapist should be a voting member of the Board that regulates physical therapists and their assistants.
- 3) Physical therapists and medical physicians work closely to provide rehabilitation care to patients in Kansas and should work closely on State regulatory boards to protect the public and shape health policy in Kansas.

Senate Public Health & Welfare
Date: 2-19-98
Attachment No. 3

If there are any questions on these issues, I would be pleased to answer them at this time.

Respectfully submitted,

A handwritten signature in cursive script that reads "Carolyn Bloom". The signature is written in dark ink and is positioned above the typed name.

Carolyn Bloom, PT

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 655

We request that SB 655 be amended as follows:

On page 25, lines 26-28, strike all after "(c)" on line 26, and lines 27 and 28. Replace with **"Individuals practicing religious beliefs which provide for reliance on spiritual means alone for healing."**

On page 39, lines 10-12, strike all after "(c)" on line 10, and lines 11 and 12. Replace with **"Individuals practicing religious beliefs which provide for reliance on spiritual means alone for healing."**

The language requested to be replaced has been in place for many years in the Kansas healing arts act and has served very well. We expect that it will continue to serve well in both the healing arts act and the medical practice act if you pass this bill and 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. We believe that it will also provide better protection to the public.

This is the same amendment we have requested in written testimony presented on SB 622.



Keith R. Landis
Committee on Publication
for Kansas

Senate Public Health and Welfare
Date: 2-19-98
Attachment No. 4

KANSAS BOARD OF HEALING ARTS

BILL GRAVES
Governor



235 S. Topeka Blvd.
Topeka, KS 66603-3068
(785) 296-7413
FAX # (785) 296-0852
(785) 368-7102

TESTIMONY OF EMILY TAYLOR

**Before the Kansas Senate Public Health and Welfare Committee
February 19, 1998**

Senator Praeger and members of the committee, thank you for this opportunity to express opposition to Senate Bill No. 655.

My name is Emily Taylor. My affiliation with Kansas spans the same period as the Board of Healing Arts, beginning in 1957 when I came to the University of Kansas as Dean of Women. Although I spent some interim years in Washington, I never lost my connection to Kansas and for over 40 years have considered it home.

For the past three years, I have served as a public member of the Board of Healing Arts, giving me a perspective on health regulation and a knowledge base from which to work. During this time I have also attended three meetings sponsored by the Federation of State Medical Boards. These meetings have given me insight into the health regulatory systems of other states. The Kansas system compares very favorably with any others I have heard described, and our problems are negligible in comparison. Many boards operate under major handicaps - cronyism, poor resources, and legislation that impedes the protection of the public, for example.

Last Saturday, February 14, the Board of Healing Arts discussed Senate Bill No. 655, polled the members individually, and passed unopposed a resolution urging the Legislature to maintain the present composition of the Board as in the public interest. A copy of that resolution is attached.

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR

MEMBERS OF THE BOARD

JOHN P. GRAVINO, D.O., PRESIDENT
LAWRENCE
RONALD J. ZOELLER, D.C., VICE-PRESIDENT
TOPEKA

DONALD B. BLETZ, M.D., OVERLAND PARK
C. J. CONRADY, JR., ANTHONY
JAMES D. EDWARDS, D.C., EMPORIA
HOWARD D. ELLIS, M.D., LEAWOOD
ROBERT L. FRAYSER, D.O., HOISINGTON
JANA D. JONES, M.D., LANSING
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

Senate Public Health and Welfare
Date: 2-19-98
Attachment No. 5

The growth of consumerism has made health care delivery increasingly patient-centered. The more interdisciplinary health care becomes, the less appropriate are self-regulated professions. No matter how meticulously a profession polices itself, the perception is that self interests are more important than public protection. Witness the public outcry over the permission granted to nursing homes to investigate complaints against themselves.

Having practitioners on the Board from the four health care groups that are licensed to practice independently, along with public members who are appointed because they are not members of the health profession, assures that diverse points of view are trained on every issue. This is indeed a group of peers - intelligent, thoughtful adults approaching problems from their varied experience, training and personal convictions.

We already have many other health care providers not regulated by the Board of Healing Arts, for example, nurse practitioners, nurse anesthetists, nurse midwives, dentists, optometrists, audiologists, mental health counselors, psychologists, pharmacists, etc. Senate Bill No. 655 would further proliferate fragmentation of the health professions. It would be moving in exactly the wrong direction - away from the desirable coordination of health profession regulation and toward the protection of self interests. We should instead be adding health care practitioners who operate independently to the Board of Healing Arts.

- * This bill is divisive.
- * It is an unnecessary waste of money.
- * It is not needed to solve whatever problems its proponents believe exist - none of which incidentally have been brought to the Board of Healing Arts during the 3 years I have served on the Board. The Board of Healing Arts is by no means perfect - a characteristic it shares with all other organizations of which I am aware - but it is capable of thoughtful consideration of any problem that a regulated profession would bring to it.
- * The present interdisciplinary composition of the Board of Healing Arts comes close to the model which the PEW Task Force on Health Care Workforce Regulation recommends as the ideal structure for oversight boards.

The Board of Healing Arts urges you to oppose the passage of Senate Bill No. 655. Thank you for listening.

KANSAS BOARD OF HEALING ARTS

BILL GRAVES
Governor



235 S. Topeka Blvd.
Topeka, KS 66603-3068
(785) 296-7413
FAX # (785) 296-0852
(785) 368-7102

RESOLUTION

Whereas, on February 14, 1998, at its regular bimonthly meeting, the 14 present and voting members of the Kansas State Board of Healing Arts ("Board") took notice of Senate Bill No. 655, and

Whereas, the 14 voting members of the Board discussed Senate Bill No. 655 in open session and polled all members as to their opinions concerning this Bill, and

Whereas, a motion was made to oppose Senate Bill No. 655 which passed unopposed.

NOW, therefore, it is resolved that the Board believes that it is in the best public interest to maintain the present composition of the Board and wishes to make this resolution known to the Kansas Legislature.

KANSAS STATE BOARD OF HEALING ARTS


John P. Gravino, D.O.
President

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR

MEMBERS OF THE BOARD

JOHN P. GRAVINO, D.O., PRESIDENT
LAWRENCE

RONALD J. ZOELLER, D.C., VICE-PRESIDENT
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DONALD B. BLETZ, M.D., OVERLAND PARK
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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
HAI K. TRUONG, D.O., WICHITA
ROGER D. WARREN, M.D., HANOVER

KANSAS BOARD OF HEALING ARTS

BILL GRAVES
Governor



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Topeka, KS 66603-3068
(785) 296-7413
FAX # (785) 296-0852
(785) 368-7102

TESTIMONY OF DONALD B. BLETZ, M.D.

Before the Kansas Senate Public Health and Welfare Committee
February 19, 1998

Senator Praeger, members of the committee, my name is Dr. Donald Bletz. Thank you for the opportunity to come before you today and provide testimony on Senate Bill No. 655. I am here in opposition to this bill, which, if enacted, would destroy the Kansas State Board of Healing Arts as it is presently constituted.

As a background to my testimony and to add to its validity, please be advised that I am currently both a member of the Kansas Medical Society and have been so for 26 years and also have had the privilege of serving the citizens of Kansas for the past 9 years as a member of the Kansas State Board of Healing Arts. In this capacity, I have been on the executive committee of the Board and served as president of this regulatory agency.

The Kansas State Board of Healing Arts comprising 5 medical doctors, 3 osteopathic doctors, 3 chiropractors, 1 podiatrist, and 3 public members brings a uniquely diversified culture, experience and intellectual input to the statutory mission of the Board. That mission is to protect the public by authorizing only those persons who meet and maintain certain qualifications to engage in 11 health care professions in this state. Through the checks and balances its diversity provides, this Board as it is presently constituted, performs its mission in an exemplary manner. The mission of the regulator and the regulated seldom run a parallel course. For if they did, we would have little or no need for any regulatory process to protect us from those whose self-interest rises above the public trust placed in them through licensure. Any properly constituted regulatory agency should have representation of those regulated; but to the

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degree that this representation dominates and controls the agency, it is to that degree that the chance for self-interest to rise above the public trust will appear. A highly diversified board, as is the case with the Kansas State Board of Healing Arts as it is presently constituted, is the best way to protect against this occurrence.

Should Senate Bill No. 655 be enacted into law, among other things, it would replace a highly diversified group of people and the checks and balances that such diversification provides with a group of more narrowly focused people who think and act alike in an almost clone-like fashion. This would take us back to the pre-1957 era when we had four licensing boards in this state to perform the functions which one board now does. The subsequent combination into 1 board by legislative action created the Kansas State Board of Healing Arts as we presently know it. For the past 41 years, this uniquely constituted Board has worked well. A testament to how well the Board has worked is embodied in the 1992 legislative decision to abolish the sunset law for this agency, thus continuing the Board's existence indefinitely.

Senate Bill No. 655 provides no useful improvement in the regulatory process and may in fact be detrimental to the mission of protecting the health and welfare of the citizens of this state. I urge this committee not to recommend passage of Senate Bill No. 655.

Thank you for your attention and I will try to answer any questions concerning this matter if I can. I would like my testimony today to be made part of the record.

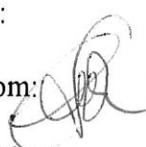
Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

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

February 19, 1998

To: Chairperson Sandy Praeger and Members, Senate Public Health Committee

From:  Harold Riehm, Executive Director, Kansas Association of Osteopathic Medicine

Subject: Testimony in Opposition to SB 655

Thank you for this opportunity to present our views on SB 655. Other groups are also opposing this Bill. They have their views; we have ours. We are not coordinating our efforts.

While some may suggest this Bill entwines with SB 220, and its attached amendment regarding chiropractic "physician", we think these are different issues. Each should rise or fall on its own merit.

We are aware of the concerns expressed by the Medical Society and the reasons it seeks this change. We share some of its concerns, though not with the same intensity. We offer the following reasons in support of our opposition to SB 655 and the creation of a new State licensing board.

- (1) The primary responsibility of the Board of Healing Arts is to protect the health-consuming public. We think it has performed that responsibility well. On occasion, we have expressed some concern regarding specific Board or staff action, but those occasions are few when compared with the hundreds of actions undertaken by the Board each year. These are health care providers regulating colleagues, not the easiest of responsibilities. They have done this, we think, ever mindful of their public protection responsibility.
- (2) Consistent with its role of protecting the public, the Board must also make every effort to foster good communications and cooperation with the providers it regulates, and the professional associations representing these providers. Again, with few exceptions, we think the board has performed well. By its very nature, it would not be unusual for there to be occasional differences of opinion between the regulated and those who regulate. Such differences are inevitable, but should be kept to a minimum. We think they have.
- (3) The composite organization of the Kansas Board is shared by few other states. The presence of doctors of chiropractic may well mean that there will be professional differences present. Yet the three major groups—MD, DO, DC—all share the characteristic of patients being able to see them without referral or other "responsible" physicians involved. KAOM also notes that the new board proposed in SB 655 also would have characteristics found nowhere else in the United States.

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- (4) The present Board of Healing Arts was created more than 40 years ago. At that time there was a major effort to create a system of "checks and balances" on the Board. The prevailing view was that the Board represented professions and not numbers of providers. Decision-making was to occur in the "sunshine" and presence of other regulated groups. This principle, we think, has also proven its merit. We have some concerns about doctors of chiropractic, for example, operating outside the sunshine of this observation. No doubt DCs have similar views regarding MDs and DOs. Over a period of time, there has developed an elaborate system of peer review under the umbrella of the Board. But the Board ultimately makes the decisions, and it is here we think checks and balances enhance protection of the public.
- (5) While mid-level providers no doubt would appreciate being full voting members, we have seen little evidence that the present Board has ignored their concerns. Many major decisions, particularly those affecting scope of practice, ultimately end up in the Legislative arena anyway.

✓ In conclusion, we think the Board has provided valuable service to the State, and continues to do so. If changes need to be made, and we have suggested one to improve communication, we think this can be done within the organizational framework of the present Board.

We suggest that the expressed unhappiness with the Board is of insufficient magnitude to support the costs, personnel disruption of staff and duplication of effort that would characterize a new Board and continuation of the present Board solely for chiropractic and podiatric doctors .

For these reasons, we ask that you retain the Board of Healing Arts as presently organized. I will be pleased to respond to questions.



KANSAS
ACADEMY OF
PHYSICIAN
ASSISTANTS

KAPA
PO Box 20401
Wichita, KS 67208

WRITTEN TESTIMONY presented to
Senate Committee on Public Health and Welfare
Senate Bill 655
February 19, 1998

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

The Kansas Academy of Physician Assistants (KAPA) appreciates the opportunity to provide written testimony in support of Senate Bill 655. KAPA was included in discussions with the Kansas Medical Society regarding the creation of a Board of Medical Professions which would credential physician assistants in addition to M.D.s and D.O.s as well as other health professions trained in the medical model. As it is most reasonable for our profession to be credentialed and regulated by M.D.s and D.O.s with whom we are inextricably linked and dependent upon for our professional existence, the KAPA Board of Directors voted unanimously to align our organization with proponents of Senate Bill 655.

KAPA would suggest that the membership of a physician assistant on the Board of Medical Professions as described on page 8 of this bill would obviate the need for a physician assistant council as set forth in Section 69 on page 46. We also respectfully request that all references to P.A.s remove the apostrophe "s" ("physician's assistant", "physicians' assistant") and that "physician assistant" be uniformly utilized.

Thank you for your consideration of our comments regarding Senate Bill 655.

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