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 20, 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:

Shelby Smith, Kansas Podiatric Medical Association
Judy A. Pope, Legal Counsel, Kansas Chiropractic Association

Others attending: See attached list

Continued Hearing on SB 655 - Board of Medical Professions

Shelby Smith, Kansas Podiatric Medical Association, testified before the Committee in opposition to **SB 655**. Mr. Smith expressed his concern that the bill should have included podiatrists because of their close daily alignment with MDs and DOs. He pointed out that podiatrists function with MDs and DOs in shared patient care, managed health care, referrals, hospital staff, and hospital committee activities as noted in his written testimony. (Attachment 1)

Judy A. Pope, Legal Counsel for the Kansas Chiropractic Association, also testified in opposition to **SB 655** indicating that the KCA has serious concerns about the bill because: (1) It changes the name of the current Healing Arts Board to the "Board of Medical Professions; (2) it removes the 3 chiropractors and 1 podiatrist from the Board and gives those 4 seats to registrants; (3) it removes 1 of the public members on the Board and gives that seat to an MD; (4) it effectively terminates the entire current staff of the Board and authorizes the employment of new staff; and (5) it creates a new chiropractic/podiatric board under the current "Board of Healing Arts" name. Ms. Pope also noted other concerns that included the addition of the chiropractic term "adjustment" to the new definition of medicine and surgery, and the bill's deletion of the "healing arts" definition under which chiropractic and podiatric physicians would be expected to practice as outlined in her written testimony. (Attachment 2)

During Committee discussion it was pointed out that different professions have their own governing boards such as the Board of Nursing, Behavioral Science Regulatory Board and the Dental Board, and that these Boards are supported primarily by fee funds and not general fund money. Concern was expressed by a member whether or not a podiatrist can legally be called a "podiatric physician" as well as a chiropractor legally called a "chiropractic physician", and the ratio of representation of each profession in comparison to MDs on the present Board of Healing Arts. A member suggested that it would be helpful for the Committee to have a background on what training is required for each profession under the Board of Healing Arts, as well as questioning if a study had even been done on whether or not it is necessary to have physicians and chiropractors represented on the same Board.

Because of lack of time, the Chair announced that discussion on **SB 655** would continue at the next meeting.

Adjournment

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

The next meeting is scheduled for February 23, 1998.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 2-20-98

NAME	REPRESENTING
Mark Stafford	Bd of Healing Arts
LARRY BUENING	BD OF HEALING ARTS
Susan Anderson	Hein + Weir
Megan Griggs	Kearney Law Office
Sabrina Wells	Budget Division
Rich Guthrie	Health Midwest
Harold Riehm	KAOM
Bob Alderson	Ks. Pharmacists Assoc.
BOB WILLIAMS	"
Bob McDaniel	Board of EMS
Carolyn Middendorf	KSNA
Pat Johnson	Bd of Nsg
Kevin LaHarge	Ks. Bd of Healing Arts
Pete Massey	KBHA
Tom Roberts	KBHA
Betty Hansen	KBHA
Marsha Schrempp	KBHA
Melissa Kipp	KBHA
Doug Smith	KAPA

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 2-20-98

NAME	REPRESENTING
Judy Pope	KCA
Darrell Fore	KCA
Peggy Slaughter	KNA
Meg Draper	KS Medical Society
Rebecca Rice	KCA
Shelby Smith	KPMA
Ken Humphreys	KTLA
Keith R Landis	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KS

the SHELBY SMITH group

Testimony
Senate Public Health and Welfare Committee
Senate Bill No. 655
February 20, 1998

Madam Chair and Members of the Committee:

My name is Shelby Smith. I come before you today on behalf of the Kansas Podiatric Medical Association with regards to our opposition to Senate Bill 655.

The balanced membership on the present Kansas Board of Healing Arts (KBHA) includes 5 MDs, 3 DOs, 3 Chiropractors, 1 DPM, and 3 public members. Composition of the Board has served the State well. It has fulfilled their purpose their mission to assure quality health care in Kansas through the regulation of certain health care providers, eleven professions in number.

If modest changes are needed, they should be done within the framework of the present Board, not the upheaval which would occur by the creation of a new Board of Medical Professions in addition to a reconfiguration of KBHA.

We have shared our position with the Kansas Medical Society (KMS). Our position has not changed. I repeat Madam Chair, our position has **not** changed. Page one, paragraph four of KMS's testimony yesterday is incorrect in assertions and assumptions. Senate Bill 220 is a different issue, there should be no linkage between the two -- each should rise or fall on their own merit. We feel the KMS proposal should have included podiatrists because of the close daily alignment of DPMs with MDs and DOs. Podiatrists function with MDs and DOs in shared patient care, managed health care, referrals, hospital staff, hospital committee activities such as credentialing to mention a few.

Structure of the present Board as wisely intended 40 years ago affords a check and balance function on peer review and discipline procedures. Before power can corrupt, it must accumulate. This bill moves the health care industry in the wrong direction in a divisive way toward self regulation, and as always, the perception of self interest first and foremost.

Respectfully,

Shelby Smith, Lobbyist
Kansas Podiatric Medical Association

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Senate Public Health & Welfare
Date: 2-20-98
Attachment No. 1

Kansas Chiropractic Association

Testimony on SB 655
Judy A. Pope, Legal Counsel
Kansas Chiropractic Association
Senate Health and Welfare Committee
February 19, 1998

Senator Praeger and Members of the Committee. I am Judy Pope, Legal Counsel for the Kansas Chiropractic Association. The KCA appreciates the opportunity to offer testimony in opposition to Senate Bill 655.

Although it appears that a new Board of Medical Professions would be formed by Senate Bill 655, that is not what this Bill really does. The Bill actually does the following things:

- It changes the name of the current Healing Arts Board to the "Board of Medical Professions;"
- It removes the 3 chiropractors and 1 podiatrist from the Board and gives those 4 seats to registrants (who can only practice under the direction of doctors);
- It removes 1 of the public members on the Board and gives that seat to an MD;
- It effectively terminates the entire current staff of the Board and authorizes the employment of new staff; and
- It creates a new chiropractic/podiatric board under the current "Board of Healing Arts" name.

The KCA has serious concerns about the Bill, including the addition of the chiropractic term "adjustment" to the new definition of medicine and surgery and the Bill's deletion of the "healing arts" definition under which chiropractic and podiatric physicians would be expected to practice. However, that is not what we want to discuss during the brief time we have been allotted.

As this Bill is studied by your Committee, you will hear from multiple provider groups outlining how they will be helped by the Kansas Medical Society proposal or how they will be hurt by the Kansas Medical Society proposal. The KCA will not do that. The primary job of the Healing Arts Board is to protect the public and our testimony will only focus on how **the public** will be affected by this proposal.

The KCA's position in regard to the Kansas Medical Society proposal and how it affects the public is summarized as follows:

Senate Public Health & Welfare
Date: 2-20-98
Attachment No. 2

1334 S. TOPEKA BLVD. • TOPEKA, KANSAS 66612-1878 • (913) 233-0697

•**IT IS NOT IN THE PUBLIC'S INTEREST** to dismantle a Board that has protected the public's health, safety and welfare for 41 years. The Board works extremely well, it is certainly "not broken" and does not need to be "fixed."

•**IT IS NOT IN THE PUBLIC'S INTEREST** to dismantle a Board that has a built-in "watch dog" effect. Doctors from four different professions (medicine, chiropractic, osteopathy and podiatry) work with public members as a natural "check and balance" system to ensure fair and impartial enforcement of regulations and statutes.

•**IT IS NOT IN THE PUBLIC'S INTEREST** to dismantle a Board and replace it with a model that was highly criticized by the 1996 Pew Health Professions Commission's Task Force. Even though most other states have separate boards, the Board of Healing Arts model is now viewed as the most cost effective and efficient method of protecting the public. (**Exhibit A:** Federation of State Medical Boards/JMPT)

•**IT IS NOT IN THE PUBLIC'S INTEREST** to decrease the number of public board members from 3 to 2. In effect, the Kansas Medical Society is recommending a physician dominated board model that is coming under intense criticism (**Exhibit B:** American Medical News)

•**IT IS NOT IN THE PUBLIC'S INTEREST** to make registrants Board members since they can only practice under the direct supervision of doctors. Based on those employment roles, there would be pressure for registrants to "go along" with the physicians. It should also be noted that no MD licensing Board in the country has a single physical therapist, occupational therapist or respiratory therapist as a board member. (See **Exhibit C**)

•**IT IS NOT IN THE PUBLIC'S INTEREST** to create a physician dominated board that would not be supervised or overseen by any state agency. Currently, 32 MD licensing Boards have an "overseeing" or "assisting" state department, state division or state bureau. (See **Exhibit D**)

•**IT IS NOT IN THE PUBLIC'S INTEREST** to dismantle a Board that eliminates costly duplication of services. There is simply no reason two different Boards should rent separate office space, pay utilities, and employ staff when all necessary board functions are already consolidated efficiently under one roof.

•**IT IS NOT IN THE PUBLIC'S INTEREST** to "grow government" by creating a new Board. Under the Kansas Medical Society proposal, the estimated additional cost to Kansas taxpayers would be over $200,000.00 per year. (**Exhibit E:** Cost Estimate)

•**IT IS NOT IN THE PUBLIC'S INTEREST** to have multiple licensing

boards offering conflicting rulings and opinions on health care issues. Those conflicting positions would ultimately wind up in court or back before the Legislature.

•**IT IS NOT IN THE PUBLIC'S INTEREST** to remove the legal requirement that patient records must be furnished upon request to other doctors. SB 655 (Section 16, item 20) will no longer require medical physicians to provide patient records to chiropractic and podiatric physicians. If patients are unable to get their records, diagnostic tests will have to be repeated at additional cost to the patient and their insurers. More importantly, deleting this important requirement could delay treatment and adversely affect the health of patients.

•**IT IS NOT IN THE PUBLIC'S INTEREST** to adopt a proposal which might allow bad doctors to escape discipline for their inappropriate patient care or activities. The Healing Arts Board currently has hundreds of disciplinary cases under its authority. If this Bill is passed, I strongly suspect that attorneys representing those doctors will argue that their cases have been prejudiced by the dismantling of the Board.

•**IT IS NOT IN THE PUBLIC'S INTEREST** to adopt the same Kansas Medical Society proposal which was presented to the 1994 Interim Public Health Committee and was NOT adopted by that committee.

•**IT IS NOT IN THE PUBLIC'S INTEREST** to dismantle a Board which was extensively reviewed by the Sunset Committee in 1992. After the review, the committee recommended that the composition of the Board NOT be changed. (See **Exhibit F**)

•**IT IS NOT IN THE PUBLIC'S INTEREST** to dismantle a Board which was EXEMPTED from further sunset review by the 1992 Legislature. That legislative action would not have occurred if the extensive study had revealed any significant problems with the Board or how it functions.

•**IT IS NOT IN THE PUBLIC'S INTEREST** to dismantle the Healing Arts Board unless the Kansas Medical Society can show how the PUBLIC will benefit from its proposal. The Kansas Medical Society cannot do that.

In closing, I want to repeat what I stated at the beginning. The interests of doctors are secondary to the interests of the public. Since the Legislature has studied the Board of Healing Arts in 1992, 1994 and now again in 1998, we hope the Legislature will send a strong message that it's time to stop distracting the Board from it's important work. You can do that by rejecting Senate Bill 655 and also rejecting any efforts to refer the matter for interim study.

Thank you for your time. I would be happy to answer any questions.

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COMMENTARY

JMPT

The Dynamics of Composite Licensing Boards from the Chiropractic Perspective

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Member, Kansas State Board of Healing Arts

David E. Brown, D.C.
Treasurer, Virginia Board of Medicine

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2-4

COMMENTARY

JMPT

The Dynamics of Composite Licensing Boards from the Chiropractic Perspective

INTRODUCTION

Tell a chiropractic colleague that you serve as the chiropractic member of a state medical licensing board and receive a sympathetic nod of the head. Mention that the state does not have its own chiropractic examining committee and the immediate thought is that it must be a tough place to practice chiropractic. But ask the opinion of those few doctors of chiropractic in this country (6 total) who serve on composite boards, and all of them will probably tell you that they prefer the multidisciplinary approach for licensing and discipline.

DISCUSSION

Regulatory Background

To protect the public's health, safety and welfare, every state has adopted legislation that regulates health care professions. The statutes provide for an unpaid board, generally composed of both professional and consumer members, to handle regulation for each licensed profession. Forty-seven states have separate licensing boards for medicine and chiropractic. Twenty-three of the medical boards also license additional health care professions, including osteopathy, podiatry, nursing and/or physician assistants.

The responsibilities of the state boards include the authority to investigate consumer complaints, oversee the general application of health care laws, help update and develop regulations to address practice issues and better define professional conduct, review required credentials and apply appropriate disciplinary action or retraining to doctors who may have broken the public trust through violation of statute or regulation.

An essential part of the regulatory board's responsibility is to discipline and/or retrain the small fraction of doctors who step outside state law and regulation. Although the administrative processes vary from state to state, the outline of a disciplinary procedure is consistent throughout the nation. Complaints are investigated thoroughly; if the complaint cannot be resolved satisfactorily through informal processes, formal hearings may be conducted to determine facts, severity of offense and whether sanctions are appropriate. Sanctions may include a formal letter of reprimand, fine, retraining or reexamination, probation, suspension of license, or revocation of the license (1).

Composite Boards

Presently, only three states license and discipline doctors of chiropractic through composite or multidisciplinary boards: Kansas (the Kansas State Board of Healing Arts, founded in 1957); Virginia (the Virginia Board of Medicine, which has licensed doctors of chiropractic since 1948); and Illinois, which has separate boards for discipline and licensing. Although few in number, they present excellent models for other states to study and emulate.

The Kansas State Board of the Healing Arts has the greatest chiropractic representation of any of the composite boards (20%). The board has fifteen members: five medical doctors, three osteopathic doctors, three doctors of chiropractic, one podiatrist and three public members (2). All board members are appointed by the governor for 4-yr terms; the presidency of the board rotates among the medical, osteopathic and chiropractic members. The Kansas Board of the Healing Arts regulates over 16,000 health care practitioners, including physicians' assistants, respiratory therapists, occupational therapists, physical therapists and athletic trainers.

The Virginia Board of Medicine has just one chiropractic member on its 17-member board, which gives it the smallest chiropractic representation percentage of the three states. The remainder of the Virginia Board of Medicine consists of eleven medical doctors (one from each congressional district), one podiatrist, one clinical psychologist, one osteopathic doctor and two public members (3). All are appointed by the Governor and serve 4-yr terms. The Virginia board regulates approximately 40,000 health care practitioners, including physical therapists, respiratory therapists, radiological technicians and occupational therapists.

Illinois presents an entirely different model, in that licensing and discipline are handled by two separate composite boards. The Illinois Medical Licensing Board was founded in 1923 and is composed of one chiropractor, one osteopath and five medical doctors (4). The Illinois Medical Disciplinary Board has one chiropractor, one osteopath and five medical doctors, but also includes two nonvoting public members (5). As in Kansas and Virginia, all board members are appointed by the Governor for 4-yr terms.

Advantages of Composite Licensing Boards

The advantages of composite boards are varied and numerous. Other states should seriously consider adopting this unique and effective approach to licensure.

A composite board fosters understanding among disciplines and helps eliminate prejudice and misinformation. The medical

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Paper submitted February 10, 1997.

The opinions expressed are those of the authors and do not necessarily represent the positions of either the Kansas State Board of Healing Arts or the Virginia Board of Medicine.

members of mixed boards—who generally have been in leadership roles in their societies and hospitals—learn about the curriculum of chiropractic colleges and work closely with chiropractic doctors who generally have been equally active in the chiropractic profession. At the same time, chiropractic board members learn about medical protocol and the problems facing that profession. It doesn't take long for tolerance and mutual respect to develop under this type of working conditions.

With many thousands of licensees and registrants, composite boards have the financial resources to hire large experienced staffs. Kansas alone has five full-time attorneys and five full-time investigators. Compare that level of support to many state chiropractic examining committees, who may be fortunate to have one full-time investigator and an assistant attorney general on loan. An ample support staff can oversee the enactment of regulations, administration of exams and investigation of doctors, which allows board members to concentrate on the more important work of disciplinary judgments and policy decisions. Regulating many licensees also means that difficult types of cases—sexual misconduct, for example—will be seen on a much more frequent basis. This additional experience is extremely helpful to both the staff and board members as they strive to make fair and effective judgments.

A composite board eliminates costly duplication of services and in the process saves many thousands of tax dollars. Why should three or four different boards rent separate office space, pay utilities and employ staff when all necessary board functions can be consolidated easily and efficiently under one roof?

Perhaps the most valuable aspect of composite boards is the "watch dog" effect. Fair or unfair, one of the major criticisms of separate boards is that they are "good ole boy" systems, with doctors protecting other doctors. That's not a charge you hear in the three states with composite boards. Doctors from different professions work with public members as a natural check and balance to ensure fair and impartial enforcement of regulations and statutes. This benefit insulates the board from actual or perceived "cronyism," and alone makes composite boards an approach that all states should seriously consider.

Another advantage of composite boards is the amount of combined expertise and experience sitting at one table. Complicated cases can many times be decided without outside experts or prolonged inquiries. Cases that overlap professions, as when a doctor is charged with invading the practice of another field, can usually be resolved with input from members of the involved professions.

Still another advantage of composite boards arises in the legislative arena. When complicated health care bills come before state legislatures, there is often conflicting testimony offered by various health care groups. This process can leave legislators confused and desperate for objective opinions. A composite board that regulates many health care fields can often provide valuable assistance to legislators.

The presence of medical physicians on a board licensing chiropractors also may have a positive, "buffering" effect on the core scope-of-practice conflicts within chiropractic. A board with medical members is unlikely to look favorably on chiropractic practice expansion into areas such as surgery, obstetrics or pharmacology. At the same time, composite licensing boards recognize the importance of diagnosis for portal-of-entry providers and are equally unlikely to embrace the no-diagnosis dogma espoused by minority elements of the chiropractic profession. It is interesting to note that Kansas, Virginia and Illinois all have similar practice acts representing mainstream chiropractic practice.

All three states prohibit the use of pharmacological agents and surgery, require that a diagnosis be made, allow for the use of physical therapy modalities and permit venipuncture for diagnosis.

Political Opposition to Composite Licensing Boards

Even with all these advantages, there has always been opposition to composite licensing boards. In Kansas, the 1957 law that created the Kansas Board of Healing Arts was immediately and vehemently opposed by the Kansas doctors of chiropractic. Within days of its passage, the Kansas Chiropractic Association filed suit seeking to have the law declared unconstitutional (6). The resulting court battle lasted almost 8 yr, with the Kansas Supreme Court ultimately ruling in December, 1964 that the law was constitutional. The Supreme Court further held that being regulated by a composite board would "not hurt" doctors of chiropractic (7).

As it turned out, the Supreme Court was correct. In fact, the 1957 law turned out to be one of the best things that ever happened to the chiropractic profession in Kansas. Today, the Kansas Chiropractic Association fully supports the current system and opposes any change in the composition of the board.

However, opposition now comes from the Kansas Medical Society. Vocal elements of the medical profession have long let it be known that they desire regulatory autonomy along with complete independence from the chiropractic profession. In 1994, the Kansas Medical Society was able to convince the Kansas legislature to hold committee hearings on a proposal to abolish the Kansas Healing Arts Board in favor of separate licensing boards.

Current Healing Arts Board president Howard Ellis, M.D., testified about the many advantages of having public members and all four disciplines sitting at one table. Public member John Peterson testified,

> When I arrived, I had a great deal of attorney cynicism because I suspected my job would be to referee fights between medical doctors and chiropractors. I was surprised to learn that fights are nonexistent since all the doctors have protecting the public as their number one goal. (Peterson J. Personal communication).

After hearing all the testimony, the Kansas Legislature concluded correctly that the current licensing system works extremely well and viewed the medical proposal as politically motivated. No legislative action was taken.

In 1992, the Virginia Chiropractic Association aided in the introduction of a bill, which eventually became law, that directed the Virginia Department of Health Professions to conduct a study of "the feasibility and appropriateness of establishing a board of chiropractic in the Commonwealth." The study by the Board of Health Professions looked at data from both within and outside the state to compare scopes of practice, number of practicing chiropractors and rates of disciplinary action for composite boards vs. chiropractic boards. Public comment was also solicited.

It was determined that disciplinary actions involving chiro-

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practors in Virginia occurred at a similar rate and for similar offenses as in other states. Although most of the public comment on this issue was by chiropractors who were in favor of a separate board, the current chiropractic member of the Virginia board was joined by the three members in supporting the existing regulatory structure. The Board recommended against a separate board in Virginia, although it did recommend consideration of options such as a second chiropractic member or some type of advisory board structure (8).

In 1996, another chiropractic organization, the Virginia Society of Chiropractic, helped introduced a bill in the Virginia legislature to create a Chiropractic Advisory Board. Its purpose would have been to "advise the Board of Medicine in matters concerning the practice of chiropractic. . . [and] review the findings of any chiropractic investigation." The bill clearly implied that a board with only one doctor of chiropractic could not fairly hear and evaluate chiropractic cases. The bill was carried over until the 1997 legislative session.

CONCLUSION

Regulation of health professionals is currently under scrutiny, with one focus being the composition of licensing boards. In 1996, the Pew Health Professions Commission's Task force on Health Care Workforce Regulation released a report highly critical of the current system of professional regulation for a variety of reasons. The report gave the following recommendations for redesigning board structure and function:

> . . . States should redesign health professional boards and their functions to reflect the interdisciplinary and public accountability demands of the changing health care delivery system [and]. . . consolidate the structure and function of boards around related health professional or health service areas. (9)

Even though composite boards have been periodically opposed by medical and chiropractic associations, they nevertheless may be the system of choice for effectively regulating doctors and serving the public interest. Certainly, it is time for other states to take a closer look at composite boards and the benefits they offer. Kansas, Virginia and Illinois, with over 160 years of combined experience, have proven that health care professionals can put aside their differences and work hand in hand for the public good. That experience has also shown that composite boards can be extremely beneficial, both for health care providers and the citizens they serve.

James D. Edwards, D.C.
Member, Kansas State Board of Healing Arts

David E. Brown, D.C.
Treasurer, Virginia Board of Medicine

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American Medical
NEWS

AMERICAN MEDICAL ASSOCIATION • DECEMBER 15, 1997 • VOLUME 40 • NUMBER 47

Georgia medical board caught in political dispute

By Mark Moran
AMNEWS STAFF

A mixture of politics and medicine is causing an explosion in Georgia, raising questions about the appropriate oversight of medical licensing boards.

Physicians and politicians in the state are locked in a bitter feud over control of the Georgia Composite Board of Medical Examiners, after its longtime executive Director Andrew Watry was asked to resign and six other board members were replaced at the request of Georgia Secretary of State Lewis Massey.

A seventh board member, William Hitch, MD, of Savannah, resigned in protest following the October firings, saying that Massey and Assistant Secretary of State Cathy Cox are using the board to further their respective political campaigns.

Cox is running for secretary of state, and Massey is running for governor in elections that will be held in November 1998.

"The politicization of the medical board here is disastrous," said Dr. Hitch, who added that Massey and Cox are trying to create an impression of "cleaning house" at the medical board.

In addition, physicians have charged that Cox has interfered in the board's application process, attempting to expedite licenses for favored physicians.

Dr. Hitch and others in the state, including the Medical Assn. of Georgia, acknowledge significant problems at the board, including backlogs of licensure applications and investigations.

Yet they stress that those problems can be traced to the fact that the Georgia board, unlike licensing agencies in many other states, is under the control of a political office, and has no authority over its own budget or staffing. Dr. Hitch and others say that Massey has repeatedly turned down requests for more funding and more staffing for the licensing board.

The 13-member board, which includes one consumer representative, has a staff of 15. The board processed more than 4,000 license applications in 1997 and received between 500 and 600 complaints for investigation.

In an effort to depoliticize the board, the medical society is supporting a bill in the state Legislature that would make the licensing board an independent agency.

"We are concerned that the actions of [Massey and Cox] have introduced politics into a board that should be kept out of politics and have additionally damaged an office that is a watchdog protecting the people of Georgia," said Paul Shanor, executive director of MAG.

'Appalling mess'

Massey did not return phone calls, but Cathy Cox denied that the actions

by the secretary of state's office politically motivated.

"This is being said by doctors who believe they have an entitlement to lifetime membership on the board," said Cox, who noted that the members who were replaced were all serving expired terms. "They are not interested in seeing things change."

What Cox said needs changing is an "appalling mess" at the medical board. "We want to get rid of a massive backlog of cases that have not been investigated," she said.

Cox called the allegation that she has interfered with the applications process "totally false," and suggested that a political battle over control of the board has turned bitterly personal.

She added that she believes MAG is attempting to assert its own control over the board. "The job of the medical board is to protect the public," Cox said. "MAG is out to protect the interests of doctors."

When asked if she intended to use the issue of the medical board as a campaigning tool in her bid for secretary of state, Cox said, "Not particularly."

Understaffed or incompetent?

Controversy surrounding Georgia's medical board goes back to a year ago when the board's medical coordinator, David Morgan, MD, was indicted for forgery of a peer review document.

Dr. Morgan, who has maintained his innocence, was removed from his position in November 1996. The resulting staffing shortage exacerbated what board members and other physicians say was an already serious problem with understaffing.

In June, the secretary of state contracted with KPMG Peat Marwick to audit the board. Shortly after Peat Marwick released its report in October, Watry was asked to resign, and the six members of the board were replaced.

The audit found that the average processing time for a license application has increased 25% since 1994; that the board traditionally opens 12% more cases than it closes each year, causing a growing backlog; that the length of time to process a complaint is nearly a year; that the policies and procedures manual is out of date; and that workload-monitoring practices do not provide adequate information on process flows and performance.

The audit recommended elimination of certain steps in the application and complaint processes, a major upgrade in hardware and software, increased use of the Internet, and filling of currently vacant positions. The audit also called for hiring one more full-time worker.

Physicians acquainted with the board insist that the conclusions of the audit only amplify what they have been saying for several years: The board needs more staffing, better technology, and control over its budget.

MAG's Shanor argued that the audit paints a portrait of a board that is doing a decent job with minimal resources.

An audit of the board found that it traditionally opens 12% more cases than it closes each year, and that it takes nearly a year to process a complaint.

He cited audit statistics indicating that from 1991 to 1995 the Georgia medical board was ranked in the top ten by Public Citizen, the Washington, D.C., consumer rights group. Public Citizen uses a measure of serious disciplinary actions taken per 1,000 doctors in its annual ranking of medical boards. In 1996, that ranking slipped to 19th, a result of the debilitating effects of chronic understaffing, Shanor said.

Massey and Cox, however, have a radically different interpretation of the audit.

Cox, conceding that Watry has a "great national reputation," said that the audit demonstrates he is "not an effective manager." Press releases from Massey's office, moreover, state that the audit shows that "professionals practicing bad medicine are allowed to continue practicing for almost an additional year."

Yet Pat Stephens, a consumer representative to the board who was replaced in the wake of the audit, said the audit is part of a "political ploy" by Massey to make it look like he is cleaning up a mess that, in fact, he created. Massey "screwed up a board that was one of the top 10, and now he turns around and tries to fix it" by firing board members, Stephens said.

"This is the most corrupt thing I have ever seen," she said.

Billie Jackson, MD, of Macon, who was also removed from the board, said she believes Massey targeted physicians who were vocal in their criticisms of him.

Dr. Jackson said that prior to release of the audit, she and others met with Massey to voice their concerns about staffing problems at the board, and about allegations of interference from the secretary of state's office with licensure applications.

"It was shortly after that we were dismissed," she said.

"We have also been very vocal that the medical board should be independent," Dr. Jackson said. "I believe that the secretary does not want people who want an independent board."

Georgia board 'a bit unique'

Dale L. Austin, deputy executive vice president of the Federation of State Medical Boards, called the oversight of the medical board in Georgia by a political office "a bit unique."

Said Austin, "There are states where the medical board exists under umbrella agencies of one sort or another. But the situation in Georgia is different because it is under the office of the secretary of state."

Also problematic, Austin said, is the fact that the board in Georgia has almost no authority over its own financing. Data from the FSMB for 1994 indicate that Georgia is one of only 14 state medical boards that does not develop or adopt its own budget and that also has no reserve fund for its own use.

The Peat Marwick audit also noted that licensure renewal fees, which make up the bulk of the board's revenues, are just $52.50 per year — the fifth-lowest in the country.

Shanor said that all of the money raised by the board from licensing fees and fines for disciplinary action are returned to a general fund that is allocated across all 35 professional licensing boards under the jurisdiction of the secretary of state.

Austin said the FSMB recommends as policy that funds raised by medical boards from licensing fees go directly into the board's budget for its own use. Funds raised from disciplinary fines, however, should go into general state funds, so that boards do not have a financial incentive to fine physicians, Austin said.

Austin added that he believes the Georgia board is "underresourced for the number of licenses they are trying to handle."

He added, "The Georgia board has an excellent reputation for level of activity given limited resources."

W.Va. med board calls for review

CHARLESTON, W.Va. (AP) — The state Board of Medicine is under investigation by out-of-state reviewers checking into how the board handles complaints against doctors.

The board itself requested the review and compiled the list of people the review team will interview.

It was prompted by criticism of the board by state House Speaker Bob Kiss, and a former board investigator who said his supervisors stymied his work.

"Many patients, particularly poor women, have been victimized, have been given inadequate medical care and have been sexually harassed and otherwise abused by physicians during the time my investigations were prevented or delayed," U.G. Young wrote in a letter to the board and to Health and Human Resources Secretary Joan Ohl. Young worked with the board for 17 years.

The National Center for Patients' Rights, a health care advocacy group, criticized the board this spring for not taking enough action on behalf of mistreated victims, saying it was biased because half its members are doctors.

Kiss is among board critics with the opposite complaint: That it is too hard on doctors. He has attempted to limit the board's ability to file complaints against doctors.

Kiss and Young are on the list of 20 to 25 people to be interviewed by the reviewers, said board President A. Paul Brooks.

While the board prepared that list, Brooks insisted the review would be fair. Most people on the list are critics of the board, he said Nov. 9.

The board is considering making the reviewers' report public if the confidentiality of patient files can be guaranteed. The report is expected to be complete in January.

"It's not an open meeting. It's an internal thing," said Steve Harper, a member of the review team from the National Federation of State Medical Boards.

COMPOSITION OF M.D. LICENSING BOARDS

State	Public Members	Other Health Professionals (DPM, DC, PA, NURSE, ETC.)
AL	NONE	
AK	2	
AZ	2	NURSE
AR	1	
CA	7	
CO	2	
CT	4	PA
DE	5	
DC	3	
FL	3	
GA	1	
HI	2	
ID	3	
IL	2	2 DC
IN	1	
IA	3	
KS	3	1 DPM, 3 DC
KY	2	
LA	NONE	
ME	3	
MD	4	
MA	2	
MI	3	PA
MN	5	
MS	NONE	
MO	1	
MT	2	PA, DPM, RD
NE	2	
NV	3	
NH	1	PA
NJ	4	1 NURSE, 1 DPM, 1 PA
NM	2	
NY	2	3 PA
NC	3	PA
ND	1	
OH.	3	DPM

OK	2	
OR	2	
PA	2	PA
RI	6	
SC	1	
SD	1	
TN	1	
TX	6	
UT	1	
VT	3	DPM, PA
VA	2	DPM, DC, PhD
WA	6	PA
WV	3	PA, 2 DPM
WI	3	1
WY	2	

Summary of Data:

48 of 51 state MD licensing boards have public members.

17 MD licensing boards have other health care professionals as members.

No MD licensing board in the United States has physical therapists, occupational therapists or respiratory therapists as board members.

Sources:

1995-1996 Exchange. Section 3: Licensing Boards, Structure and Disciplinary Functions, Federation of State Medical Boards of the United States, Inc., pages 4-5.

Federation of State Medical Boards Handbook, 1997-1998.

U.S. MEDICAL BOARDS STRUCTURE AND OPERATION

State	State Agency Supervising or Related to the Board
AL	(Appears to be no supervising department, agency, division or bureau)
AK	Semi-autonomous board with most services provided by the Division of Occupational Licensing,, Department of Commerce and Economic Development
AZ	Some services are provided by the Department of Administration
AR	Some services are provided by other state agencies
CA	Some services are provided by Department of Consumer Affairs
CO	Most services are provided by Department of Regulatory Agencies
CT	Subordinate to the Department of Public Health and Addiction Services handles most administrative matters and has final authority on most substantial issues except board adjudicates disciplinary cases
DE	Most services are provided by Department of Administrative Services, Division of Professional Regulation
DC	Subordinate board to the Department of Consumer and Regulatory Affairs
FL	Semi-autonomous board within Agency for Health Care Administration
GA	Administrative support provided by Office of the Secretary of State
HI	Most services are provided by Department of Commerce and Consumer Affairs
ID	(Appears to be no supervising department, agency, division or bureau)
IL	Advisory within the Department of Professional Regulation has final authority on licensure and disciplinary functions
IN	Most services are provided by Health Professions Bureau
IA	Budget submitted through Health Department
KS	Independent Board
KY	Some services are provided by Cabinet for Human Resources and Office of Attorney General
LA	Within the Department of Health and Hospitals
ME	Affiliated for administrative support and liaison with chief executive/legislature with Department of Professional and Financial Regulation
MD	Semi-autonomous board within the Department of Health and Mental Hygiene
MA	Semi-autonomous within Office of Consumer Affairs and Business Regulation
MI	Most services are provided by Department of Commerce, Office of Health Services
MN	Some services are provided by other state agencies
MS	Mississippi State Department of Health
MO	Within the Division of Professional Registration
MT	Department of Commerce, Professional and Occupational Licensing Boards
NE	Subordinate board within the Department of Health which handles most administrative matters; Director of Health has final authority on most substantial issues and all disciplinary actions
NV	(Appears to be no supervising department, agency, division or bureau)
NH	(Appears to be no supervising department, agency, division or bureau)
NJ	Some services provided by Division of Consumer Affairs
NM	Administratively aligned through Department of Financial and Professional Regulation

NY	Advisory board only with the New York State Board of Regents having final authority on licensure, New York State Department of Health, Board of Professional Medical Conduct
NC	(Appears to be no supervising department, agency, division or bureau)
ND	(Appears to be no supervising department, agency, division or bureau)
OH	(Appears to be no supervising department, agency, division or bureau)
OK	(Appears to be no supervising department, agency, division or bureau)
OR	Executive Department of the State of Oregon
PA	Most services are provided by Department of State, Bureau of Professional and Occupational Affairs
RI	Semi-autonomous board within the Department of Health which handles most administrative matters and has final authority on most substantial issues except board licensing and adjudication of disciplinary cases
SC	Department of Labor, Licensing, and Regulation handles most administrative matters
SD	Department of Commerce and Regulation
TN	Subordinate board within the Department of Health and Environment, Division of Health-Related Boards
TX	(Appears to be no supervising department, agency, division or bureau)
UT	Advisory board within the Division of Occupational and Professional Licensing which has final authority on licensure and disciplinary functions
VT	Some services are provided by Office of the Secretary of State, Office of Professional Regulation
VA	Semi-autonomous board within the Department of Health Professions which handles most administrative matters and has final authority on budget and hiring..
WA	Semi-autonomous board within the Department of Licensing
WV	(Appears to be no supervising department, agency, division or bureau)
WI	Within the Department of Regulation and Licensing
WY	Some services are provided by Department of Administration and Fiscal Control

Summary of Data:
The majority of the state MD licensing boards (at least 32) have an "overseeing" or "assisting" state department, state division or state bureau.

Primary Data Source:
1995-1996 Exchange. Section 3: Licensing Boards, Structure and Disciplinary Functions, Federation of State Medical Boards of the United States, Inc., pages 2-3.

Secondary Data Source:
State board publications and official state internet web sites.

THE TRUE COST OF THE KMS PROPOSAL

The KMS letter of January 5, 1998 stated that there would be no additional cost if a new board was created. That is simply not true.

The following budgets of comparable sized licensing boards graphically illustrate the **additional** cost that would occur if the podiatric/chiropractic professions were split off from the other health care professions. This deficit would have to be paid by Kansas taxpayers.

ANNUAL BUDGETS OF COMPARABLE SIZE LICENSING BOARDS

STATE BOARD	1995-96 TOTAL LICENSEES*	1995-96 BUDGET*
California Osteopathic Board	1,210	487,000.00
Washington Osteopathic Board	400	453,000.00
Arizona Osteopathic Board	722	258,600.00
Oklahoma Osteopathic Board	953	250,000.00
Wyoming Board of Medicine	783	240,000.00
Total for 5 Boards	4,068	$1,688,600.00
AVERAGE PER BOARD	**814**	**$337,720.00**

THE BOTTOM LINE

Based on the above documented figures, it is reasonable to conclude that the annual cost for a separate Kansas chiropractic/podiatric board would be at least $337,720.00.

Since chiropractic/podiatric license renewal fees will only yield $135,000.00 (900 active licensees times the 1996 licensing fee of $150.00), the deficit to be paid by Kansas taxpayers would be at least **$202,720.00 PER YEAR.**

***Source:**
1995-1996 Exchange. Section 3: Licensing Boards, Structure and Disciplinary Functions, The Federation of State Medical Boards of the United States, Inc., pages 23, 32-33.

Excepts from House Committee on Governmental Affairs Subcommitte Report
Sunset Review of the Kansas Board of Healing Arts
February 24, 1992

"The Subcommittee on the Sunset of the Board of Healing Arts held seven meetings to consider the Board, at which it received testimony fromt the Kansas Physical Therapy Association and had input in person or in writing from other health-related professional associations including the Kansas Medical Society, the Kansas Association of Osteopathic Medicine, the Kansas Podiatric Medical Association, and the Kansas Chiropractic Association. The Executive Director of the Board and, on occasion, other Board staff, were present at Subcommittee meetings."

After those hearings, the following recommendation was made by the Subcommittee:

"The Subcommittee recommends no change be made in the composition of the Board, but acknowledges concerns about the fact that there is not proportional representation of licensees on the Board, nor are all regulated professions represented."

IMPORTANT NOTE: After the Subcommittee report was issued, the 1992 Kansas Legislature passed legislation which EXEMPTED the Kansas State Board of Healing Arts from further sunset review.

KANSAS BOARD OF HEALING ARTS

BILL GRAVES
Governor

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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 each member as to their opinion 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

John P. Gravino, D.O.
President

2-17

Healing Arts Board

Numbers of Licensees & Registrants*; Composition of Board
(Active, exempt, military and federal status as of December 1, 1997)

Profession	Number Licensed	Board Rep.
MD	6572	5
DO	563	3
Chiropractor	733	3
Podiatrist	103	1
Physician Asst.	298	
Physical Therapist	1362	
PT Assistant	896	
Occupational Ther.	932	
OT Assistant	220	
Respiratory Ther.	1260	
Athletic Trainer	167	
Public Representative		3
Total	16,197	15

*Source: The Information Network of Kansas (http://www.ink.org/public/boha/stats.html)