

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on March 8, 2001 in Room 210 Memorial Hall

All members were present except: Representative Geraldine Flaharty, Excused

Committee staff present: Dr. Bill Wolff, Kansas Legislative Research Department
Renae Jefferies, Revisor of Statute's Office
June Evans, Secretary

Conferees appearing before the committee: Representative Larry Campbell
Jim Crowl, Kansas Chiropractic Association
Dr. Kevin Hoppock, Kansas Medical Society and Kansas Family Physicians
Chip Wheelan, Kansas Association of Osteopathic Medicine
Kevin Robertson, Kansas Dental Association

Others attending: See Attached Sheet

The Chairperson opened the hearing on **HB 2359 - Physicals for school district employee applicants performed by chiropractors.**

Dr. Bill Wolff, Legislative Research Department, gave a briefing on **HB 2359** which the board of education requires all employees of the school district to submit a certificate of health on a form prescribed by the secretary of health and environment. This bill would allow a person licensed to practice chiropractic under the laws of this state to give school employee examinations.

Representative Showalter asked if a chiropractor could give a tuberculin test?

Dr. Wolff stated he did not know the answer.

Representative Larry Campbell stated he did not have technical expertise in this area. It was represented to me that a physician's assistant and nurses could give physical examinations and it is my understanding that chiropractors can do exams for students required by the schools. If that is the case, it makes common sense to me that if chiropractors can give examinations to students that are required in sports, and that is my understanding, and if a nurse, even though they are under the supervision of someone in that area, it warranted the debate on whether chiropractors could do physical exams for teachers.

Jim Crowl, Kansas Chiropractic Association, a proponent, testified this is primarily a technical clean-up measure since doctors of chiropractic are already authorized by statute (K.S.A. 65-2871) to "examine, analyze and diagnose the human living body, and its diseases..." **HB 2359** simply allows a school employee to have the option of selecting a doctor of chiropractic to perform his or her physical examination (Attachment 1).

Mr. Crowl stated to answer Representative Showalter's question regarding the tuberculosis requirement, there are two ways of meeting that requirement and one is through x-ray and chiropractors are qualified through education and regularly use x-ray diagnosis in their practice. The second way of meeting that requirement is to be referred to the county health clinic for a skin test and doctors of chiropractic are qualified to review those tests and sign the form based upon that. It is a part of everyday practice to make differential diagnosis.

Representative Showalter stated she understood doctors of chiropractic dealt mostly with the skeletal structure of the body, is that correct?

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Mr. Crowl said that is one of the principle modes of treatment but it does not mean that is all they are concerned with based upon their scope of practice and daily practice. Chiropractors do diagnose and are responsible in diagnosing any condition.

Representative Showalter questioned, if there was scarring on the lungs from tuberculosis, they are qualified to diagnose that?

Mr. Crowl stated, absolutely.

The Chairperson stated that Doug Smith, Kansas Academy of Physician Assistants, had an amendment for **HB 2359** but there was a typographical error so he would provide the amendment at the next meeting.

Dr. Kevin Hoppock, MD, Kansas Family Physicians and Kansas Medical Society, testified in opposition of **HB 2359** because of the chiropractors' limited training in performing comprehensive physical examinations and because it is outside their scope of practice. Adoption of **HB 2359** would significantly expand that scope beyond their training.

Medical doctors go through extensive training in performing general examinations and taking medical histories. This is not the case for chiropractors. The statute says: "The certificate shall include a statement that there is no evidence of physical condition that would conflict with the health, safety, or welfare of the pupils; and that freedom from tuberculosis has been established by chest x-ray or negative tuberculin skin test.

Signing the certificate of health implies that the health care provider has performed an examination and determined that the employee's health would not compromise the health of the school children he or she might contact.

Because chiropractic training is limited to the musculoskeletal system, their scope of practice is also limited. Performing a tuberculin skin test, which is specifically mentioned in the statute, is outside of their limited scope of practice since it involves piercing the skin with a needle (Attachment 2).

Charles L. Wheelen, Kansas Association of Osteopathic Medicine, testified in opposition of **HB 2359** because it is inconsistent with the Healing Arts Act and would contravene the purpose of K.S.A. 2000 Supp. 72-5213, the section of Kansas law requiring that school district employees obtain a certification of health. The original purpose almost four decades ago was to assure that teachers and other school district employees who come in regular contact with pupils do not have tuberculosis. Now we might be equally concerned about other contagious diseases that could cause an epidemic of illness among students if their teacher is infected with a disease that can be transmitted by way of casual contact. The chiropractic scope of practice described in section 65-2871 of the Healing Arts Act does not authorize such licensees to order or interpret the kind of tests necessary to diagnose contagious diseases. While one might argue that this scope of practice would allow chiropractors to read a chest x-ray and look for signs of tuberculosis, it does not allow them to order laboratory tests for other infectious diseases (Attachment 3).

Larry Buening, Executive Director, Kansas Board of Healing Arts, a proponent to **HB 2359** provided written testimony (Attachment 4). Jerry Slaughter, Executive Director, Kansas Medical Society, an opponent to **HB 2359** provided written testimony (Attachment 5).

The Chairperson closed the hearing on **HB 2359**.

The Chairperson opened the hearing on **SB 212 - Use of Certain Names by Dentists**.

Kevin Robertson, CAE, Executive Director, Kansas Dental Association, testified as a proponent to **SB 212** which would provide single-owner dental practices the option of being named something other than the dentist's name. Under current Kansas law a single-owner dentist must practice under his or her own name. If there is a partnership or association with another dentist (or other healthcare provider) that dental

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practice or clinic may now chose to name itself anything if approved by the Kansas Dental Board (Attachment 6).

The Kansas Dental Board provided written testimony stating in the past they had steadfastly supported the concept that the provider's name should be on the door. The chief concerns are a misinformed or misled public. The Kansas Dental Board will continue to evaluate each name submitted individually (Attachment 7).

The Chairperson closed the hearing on **SB 212** and stated final action would not be taken today on either bill. The committee should be prepared to work **HB 2229** and **SB 212** on Monday.

The Sub-Committee on Licensing requested that Representative Patterson be added as a member.

The meeting adjourned at 2:30 p.m. and the next meeting will be March 12.



Kansas Chiropractic Association

**Kansas House Health and Human Services Committee
HB 2359
March 8, 2001**

The Kansas Chiropractic Association (KCA) appreciates the opportunity to offer testimony in favor of HB 2359.

HB 2359 is primarily a technical clean-up measure since doctors of chiropractic are already authorized by statute (K.S.A. 65-2871) to "examine, analyze and diagnose the human living body, and its diseases..." HB 2359 simply allows a school employee to have the option of selecting a doctor of chiropractic to perform his or her physical examination.

The Kansas Chiropractic Association would like to point out the following facts regarding the qualifications of doctors of chiropractic:

- Kansas doctors of chiropractic are licensed to practice the healing arts by the Kansas State Board of Healing Arts;
- Kansas doctors of chiropractic are direct access, first contact providers;
- Kansas doctors of chiropractic are qualified by their professional training and authorized by existing Kansas statute to perform physical examinations, X-ray studies, blood tests and to make a differential diagnosis;
- Kansas doctors of chiropractic are required to carry malpractice insurance and are covered by the Kansas Health Care Stabilization Fund.

Based on these facts, there is simply no rational reason why teachers and other school employees should not be allowed to select the health care practitioner of their choice. This set of facts was also why the Kansas State Board of Healing Arts voted to support HB 2359.

The Kansas Chiropractic Association urges passage of HB 2359 and would be happy to answer any questions at the appropriate time.



Family Physicians - Northeast

March 8, 2001

To: House Committee on Health & Human Services
From: Kevin Hoppock, MD, family physician
Re: HB 2359, School Employees' Certificates of Health by Chiropractors

Chairman Boston, Vice Chair Morrison, and Committee members:

Good afternoon. My name is Kevin Hoppock. I am a family physician in Wichita serving as the Doctor of the Day for today, and I am also the President of the Medical Society of Sedgwick County. Thank you for the chance to provide testimony in opposition to HB 2359.

We oppose this measure because of concerns about the chiropractors' limited training in performing comprehensive physical examinations and because it is outside their scope of practice. HB 2359 adoption would significantly expand that scope beyond their training.

Medical doctors go through extensive training in performing general examinations and taking medical histories. This is not the case for chiropractors. The statute says

"The certificate shall include a statement that there is no evidence of physical condition that would conflict with the health, safety, or welfare of the pupils; and that freedom from tuberculosis has been established by chest x-ray or negative tuberculin skin test."

Signing the certificate of health implies that the health care provider has performed an examination and determined that the employee's health will not compromise the health of the school children he or she might contact. But the training which chiropractors undergo is primarily limited to the musculoskeletal system. There is much more involved in a certificate of health examination than a chiropractor's training supports. Their training is limited in scope. Thus, their ability to perform an effective examination of major systems of the body other than the musculoskeletal system is also limited. Physicians, on the other hand, have extensive training in conducting generalized examinations and taking patient histories. Besides examining the musculoskeletal system, our physicals involve examining all the other major systems of the body, including the cardiovascular system, the nervous system, the digestive system, the genital-urinary system, etc.

Because chiropractic training is limited to the musculoskeletal system, their scope of practice is also limited. Performing a tuberculin skin test, which is specifically mentioned in the statute, is outside of their limited scope of practice since it involves piercing the skin with a needle.

On February 19th, the Kansas Chiropractic Association most eloquently testified to the dangers of allowing health-related professionals to practice beyond their scope of practice. We could not agree more. HB 2359 clearly would extend chiropractic privileges beyond their scope of practice. Not only is this change unnecessary, it places Kansas citizens at risk. For all these reasons we oppose the proposed bill and urge that you defeat it. Thank you again for this opportunity to be here. I'd be happy to answer any of your questions.



Testimony
To the House Health and Human Services Committee
Regarding House Bill 2359
By Charles L. Wheelen
March 8, 2001

The Kansas Association of Osteopathic Medicine is opposed to HB2359 because it is inconsistent with the Healing Arts Act and would contravene the purpose of K.S.A. 2000 Supp. 72-5213, the section of Kansas law requiring that school district employees obtain a certification of health.

In reviewing current law it becomes apparent that the original purpose almost four decades ago was to assure that teachers and other school district employees who come in regular contact with pupils do not have tuberculosis. Nowadays we might be equally concerned about other contagious diseases that could cause an epidemic of illness among students if their teacher is infected with a disease that can be transmitted by way of casual contact. It is obvious that the purpose of the law is not to determine whether the teacher has scoliosis or some other orthopedic disorder.

The chiropractic scope of practice described in section 65-2871 of the Healing Arts Act does not authorize such licensees to order or interpret the kind of tests necessary to diagnose contagious diseases. Chiropractors are limited to the use of "physical, thermal or manual method" or "X-ray diagnosis and analysis taught in any accredited chiropractic school or college." While one might argue that this scope of practice would allow chiropractors to read a chest x-ray and look for signs of tuberculosis, it does not allow them to order laboratory tests for other infectious diseases.

Even if you ignore the scope of practice delineated in the Healing Arts Act, there is a practical reason why the teacher's health evaluation should be performed by a physician. If it is discovered that the teacher has an illness or disease, the physician can prescribe medication or other appropriate medical treatment, whereas a chiropractor cannot.

Thank you for considering our testimony. We urge you to reject HB2359.

H&HS
3-8-01
Atch #3

KANSAS BOARD OF HEALING ARTS


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Governor



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MEMO

TO: House Committee on Health and Human Services

FROM: Lawrence T. Buening, Jr. 
Executive Director

DATE: March 8, 2001

RE: H.B. No. 2359

Thank you for the opportunity to provide written testimony in support of H.B. No. 2359. I apologize I cannot attend and present this in person. The House Subcommittee on Appropriations is considering the budget of the State Board of Healing Arts at the same time as this Committee is conducting its hearing on this bill. Also, Senator Wagle has requested that a representative of the Board attend the hearing on H.B. 2275 which is being conducted by the Senate Committee on Public Health and Welfare at 1:30 p.m. today.

At its meeting on February 10, 2001, the State Board of Healing Arts reviewed the provisions of H.B. No. 2359 and voted to support passage of this bill. It was the Board's opinion that allowing chiropractors to sign certificates of health for school district employees did not expand the current scope of what chiropractors can legally and competently perform. K.S.A. 65-2871 states that individuals deemed engaged in the practice of chiropractic include those persons "who examine, analyze and diagnose the human living body, and its diseases by the use of any physical, thermal or manual method and use the x-ray diagnosis and analysis taught in any accredited chiropractic school or college...". The Council on Chiropractic Education (CCE) establishes the standards for accreditation of chiropractic programs and institutions. In its Forward to these standards, CCE acknowledges that doctors of chiropractic are members of the healing arts and help meet the health needs of the public. Doctors of chiropractic serve as gatekeepers for direct access to the health delivery system and have responsibilities as primary care clinicians which include wellness promotion, health assessment, diagnosis, and the chiropractic management of patients' health care needs. Physical examinations and diagnoses are an integral part of chiropractic education and training.

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR

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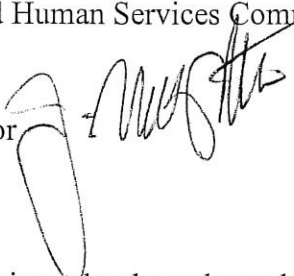
In its discussion of this bill, the Board noted that K.S.A. 65-2871 would prohibit a doctor of chiropractic from administering a tuberculin skin test since this would involve the injection of a drug into the body. However, the current language of K.S.A. 2000 Supp. 72-5213 specifically allows the freedom from tuberculosis to also be established by chest x-ray, a modality which is precisely within the scope of practice of chiropractic.

The State Board of Healing Arts requests the Committee recommend H.B. No. 2359 favorably for passage. Thank you for allowing me to provide this testimony in written form rather than by personal presentation. If you have any questions, I can be available to answer questions at any other time the Committee may wish to consider this bill.



KANSAS MEDICAL SOCIETY

To: House Health and Human Services Committee

From: Jerry Slaughter
Executive Director 

Date: March 8, 2001

Subject: HB 2359; concerning school employee health certifications

The Kansas Medical Society appreciates the opportunity to appear today on HB 2359, which would add chiropractors to the list of health care providers that can perform health certification exams on school district employees. We are opposed to this bill.

Currently, only physicians, physician assistants and advanced registered nurse practitioners are authorized to perform such exams. Both PAs and ARNPs work under the supervision of, at the direction of, or in collaboration with physicians. In other words, there is a clear linkage between those practitioners and a physician. This is a reasonable approach which protects patients.

We are not here to disparage or diminish in any way the contributions of chiropractors in the increasingly diverse health care delivery system. We do not, however, believe that their training and education prepares them to fulfill a role that encompasses diagnosing a broad spectrum of diseases and conditions, such as that required by this law. Current law (K.S.A. 72-5213 (a)) states that the health care provider performing the examination must certify that "there is no evidence of physical condition that would conflict with the health, safety, or welfare of the pupils; and that freedom from tuberculosis has been established by chest x-ray or negative tuberculin skin test."

As to the diagnosis of tuberculosis, the disease may show up on a chest x-ray when it is advanced and there is substantial risk that the patient can expose others, but it is much more desirable to utilize the skin test to detect tuberculosis early on. Chiropractors are not licensed to do the skin test because it requires the injection of a substance under the patient's skin. More importantly however, the presence of other communicable diseases and conditions must be ruled out during the examination. Chiropractors are trained primarily to deal with musculoskeletal problems, and have limited training and exposure to other body systems. They do not have the extensive training of physicians, and those working under their supervision or direction, to enable them to conduct a thorough, general evaluation of other major body systems.

We do not believe this expansion of chiropractic scope of practice is warranted, nor is this bill necessary. We urge you to report it unfavorably. Thank you for the opportunity to offer these comments.

H & HS
3-8-01
Atch #5



KANSAS DENTAL ASSOCIATION

Date: March 8, 2001

To: House Committee on Health and Human Services

From: Kevin J. Robertson, CAE
Executive Director

A handwritten signature in black ink, appearing to read 'Kevin', is written over the printed name and title.

Re: **SB 212 – Dental Practice Names**

Chairman Boston and members of the Committee I am Kevin Robertson, executive director of the Kansas Dental Association (KDA) which represents about 80% of Kansas' practicing dentists. I am here today to testify in support of SB 212 which would provide single-owner dental practices the option of being named something other than the dentist's name. The issue today is simply one of fairness. SB 212 was placed on the consent calendar by the Senate Committee on Public Health and Welfare and passed by the full Senate 39-0.

Under current Kansas law a single-owner dentist must practice under his or her own name, i.e. John Doe, DDS, PA. If a dentist is in partnership or association with another dentist (or other healthcare provider) that dental practice or clinic may now chose to name itself anything if approved by the Kansas Dental Board. The KDA believes it is appropriate and time to allow single-owner dental practices the same opportunities for naming their practices that multiple-owner dental practices have enjoyed for years.

It is important to note that these names would require approval of the Kansas Dental Board and would allow for innocuous names like "Sunflower Dental," "Old Towne Dental" and the like. The bill is clear that these names could not mislead the public as determined by the Board. Misleading names could be names that suggest a dental specialty where none exists, a higher level of expertise in a certain area without specialty recognition, or other unsubstantiated claims.

I hope you will join me in agreeing that the disparity in the law is worth correcting. It frankly isn't fair that a single-owner dentist would be required to open a practice across the street from the Capitol under his own name only, while a multiple-owner practice could call itself "Capitol Plaza Dental" or anything else they might believe is a marketing advantage.

Thank you for your time today. I urge your support of SB 212.

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H & HS
3-8-01
Atch #6

STATE OF KANSAS



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KANSAS DENTAL BOARD

Legislative Testimony – Senate Bill 212

Stephen R. Haught, President
March 8, 2001

The Kansas Dental Board has in the past steadfastly supported the concept that the provider's name should be on the door. The chief concerns are a misinformed or misled public. The business configuration is not a solid base for informing the consumer about who and how care may be extended.

The past changes to this part of the Dental Practices Act has been to allow business structures (multiple providers) a flexibility in signage and promotion but restrain misleading or "over-the-top" promotional names from confusing the public.

The present law requires a sole proprietor to use only a proper name, while a corporation (i.e. PC, PA or LLC) may use any name that both the Secretary of State and the Kansas Dental Board approve.

If the concept of "caveat emperor" is the rule, then trade names by any provider is acceptable. The Kansas Dental Board will continue to evaluate each name submitted individually. A rush to rename offices may have direct impact. The long-term workload on the staff will be slightly more than in the past effort.

H & HS
3-8-01
Atch #7