

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 13, 2001 in Room 210 Memorial Hall

All members were present except:

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

Conferees appearing before the committee:

Others attending: See Attached Sheet

The Chairperson stated that Representative Jim Morrison, Chairperson of the Sub-Committee on Licensing would give a report the Sub-Committee's meetings and findings.

Representative Morrison said he appreciated the Chairperson establishing this Sub-Committee. The purpose of the committee was to work collectively as a group with those people that want to have a change in the scope and moving from registration to licensure, or whatever. These meetings have been very worthwhile. The Sub-Committee will continue to meet at times when there is time and the Chairperson position will be shared. Representative Storm will chair the next meeting. An interim study of 6 - 10 days has been requested to continue the work (Attachment 1).

The Chairperson thanked Representative Morrison and the members of the Sub-Committee for their work.

The Chairperson stated there were no hearings today and the first thing on the agenda is **SB 186** that was passed out of committee yesterday. **HB 2227** which was passed out earlier has not been set for hearings in the Senate and this is causing some anxiety because this is very important to BSRB. Therefore, it is recommended even though we have passed **SB 186** out favorably that we reconsider our action and pull it back and take **HB 2227** which passed out of committee with no amendments and marry the two together and run **SB 186** with **HB 2227**.

Representative Morrison moved and Representative Showalter seconded to reconsider and bring back **SB 186** to the committee. The motion carried.

The Chairperson asked what the committee's wishes were on **HB 2229 - Kansas Senior Caregiving Initiative**. A balloon was distributed yesterday that stripped the 85% rule and makes it subject to appropriations.

Representative Morrison moved and Representative Showalter seconded to approve the balloon to **HB 2229**. The motion carried.

Representative Kirk offered an amendment seconded by Representative Storm, "effective July 1, 2002 the Department on Aging and SRS are prohibited from penalizing facilities for low census through a reduction of the medicaid rate (excludes 85% occupancy rule).

Chairperson Boston asked Representative Kirk if there would be a fiscal note?

Representative Kirk stated no, not effective until 2002 so next year they would have to take a look at it.

The Chairperson stated we got the bill back because it was not going anywhere if there was any money in

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 210, Memorial Hall at 1:30 p.m. on March 13, 2001.

it. The fiscal note, \$4 or \$5 million, would not be in this fiscal year, but by the same token it would be appropriating money for later. Not sure what would happen to the bill if passed out with this amendment.

Representative Lightner stated there would be a delayed fiscal note, correct?

The Chairperson said that was correct.

The Chairperson asked if there were any ongoing deliberations about changing the 85% rule?

Representative Kirk stated the last she knew nothing was being done with it so this is my way of saying on a policy statement this is a way of dealing with medicaid reimbursement.

The Chairperson asked if the initial intent of the 85% rule was to penalize those that were operating at a lesser deficiency?

Representative Kirk said, right, back when this was first implemented the average occupancy was up in the 90s and it was the feeling they were not putting forth the effort to operate in an efficient manner. That has changed and the rule is still present. When penalizing someone because of a low census, and penalize them on the medicaid rate, it is putting the financial stability of these facilities at risk.

Representative Storm said to penalize or insist that we wanted that facility down to 85% occupancy rate when the whole state's efforts and philosophy have been to keep people in their homes as long as possible, don't we have to support the state's philosophy?

Representative Kirk said most are down to 85% because industry has worked to meet request of state to keep people in their homes longer. Now there are a lot of assisted living facilities that are changing how they operate and that reduces the occupancy of these facilities and it should as these people should stay in their home longer. Only the most acutely ill go to facilities. When the 85% rule was initiated those other options were not available.

Representative Showalter stated the 85% rule needs to be removed. Is there another way of accomplishing this or sending the message other than putting it on this bill when in fact it may kill this bill?

Representative Kirk said there is the possibility that it might this year, but we could change it next year. We need a policy statement to say we don't want the agencies to use the rate structures to penalize facilities. We need a clear statement that this is not acceptable.

Representative Showalter asked if Representative Kirk wanted the 85% rule in this bill even if it would kill the bill?

Representative Kirk said she could not understand why it would kill the bill because it does not have a fiscal impact this year.

Representative Showalter said that was this year. I do agree there this a problem.

The Chairperson called a question on the Kirk Amendment. Yes - 8, No 8 and the Chairman broke the tie, voting No, making the vote Yes- 8 No 9 and the amendment lost. We are now back on the bill..

Representative Long moved and Representative Lightner seconded to move **HB 2229** favorably as amended. The motion carried.

The Chairperson asked the committee what their wishes were on **SB 50 - Elimination of dental assistants sunset provision.**

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 210, Memorial Hall at 1:30 p.m. on March 13, 2001.

Representative Morrison moved and Representative Patterson seconded to amend on Page 2 and strike “coronal” on lines 27 and 29 and “above the gum line” on line 29 and “is not performed on a patient who has undergone local or general anesthesia at the time of the procedure in lines 29, 30 and 31. The motion failed.

Representative Palmer moved and Representative DeCastro seconded a substitute motion to move **SB 50** out of committee as currently printed. There was a question on the vote: Yes 8 and No 8, being a tie the Chairman voted Yes and **SB 50** moved out favorably.

The meeting adjourned at 2:15 p.m. and the next meeting will be March 14.

HEALTH AND HUMAN SERVICES

DATE March 13, 2001

NAME	REPRESENTING
Tom Caches	KDHA
Tom Brand	KATS
Rich Gettewie	Health/Widerest
Nancy Pierce	KHCA
Bill Brady	Ki Gov't Consulty
Tim Wood	Conke Consulting Group
Michael White	Kearney Law Office
Kevin Brown	Henry & Wir Child
DTZeh	KATSA
Deen Mull	Kathy Damon & Assoc
Mike Huffles	Beverly Enterprises
John Aureli	SRS
Brenda Kuder	SRS
PAUL HURLEY	PAT HURLEY & Co. / KADP
John Peterson	Ks Dental Assn
John Federico	KDA
Julia Nammin	Federico Consulting
Christian Lampe	Rep. Palmer
DAVE HALFERTY	KDOA
Marla Rhoden	KDHE
ROTH R LANDIS	CHRISTIAN SCIENCE COMMITTEE 2ND PUBLICATION FOR KANSAS
KEVIN ROBERTSON	KANSAS DENTAL ASSN
Jenni Freed	Ks Dental Bd.
Jan Pratt	Wife of Dentist

REPORT
TO THE KANSAS HOUSE OF REPRESENTATIVES
HEALTH AND HUMAN SERVICES COMMITTEE

by the
Sub-Committee on Credentialing

Members

Jim Morrison, Chair
Patricia Lightner, Vice-Chair
Sue Storm, Ranking Minority
Gwen Welshimer
Nancy Kirk
Lana Gordon
Ray Merrick
Doug Patterson

March 13, 2001

HHS
3-13-01
Atch# 1

HEALTH & HUMAN SERVICES SUB-COMMITTEE LICENSING

CHARGE: The purpose of the sub-committee is to develop expertise in the area of licensing, certification and registration. Formulating recommendations to the standing committee regarding the recommended avenue to pursue LICENSING. The sub-committee will make recommendations regarding a future course for those wishing to obtain LICENSING. Previous credentialing, or lack of same, shall be considered in making the recommendation to the full standing committee.

The sub-committee will consist of seven legislators:

Chair: Jim Morrison

Vice Chair: Patricia Lightner

Sue Storm

Gwen Welshimer

Nancy Kirk

Lana Gordon

Ray Merrick

Doug Patterson

The committee should return a recommendation for each request for LICENSING. The Chairman (or designee) shall make the majority report for the sub-committee. A minority report may be authorized by the Health & Human Services Chair provided time and circumstances permit. Should two committee reports (majority and minority) be issued each will be included in the minutes of that day. The majority report will be the only report used to determine future action of the standing committee. The sub-committee report will be voted upon by the entire standing committee present on the day the vote is called. Only one majority (and minority) report will be accepted.

Credentialing Definitions

KSA 65-5001

Credentialing – “the formal recognition of professional or technical competence through the process of registration, licensure, or other statutory regulation.”

Certification – “the process by which a nongovernmental agency or association or the federal government grants recognition to an individual who has met certain predetermined qualifications specified by the nongovernmental agency or association or the federal government.”

Registration – “the process by which the state identifies and lists on an official roster those persons who meet predetermined qualifications and who will be the only persons permitted to use a designated title.”

Licensure – “a method of regulation by which the state grants permission to persons who meet predetermined qualifications to engage in an occupation or profession, and that to engage in such occupation or profession without a license is unlawful.”

STATE OF KANSAS



TOPEKA

HOUSE OF REPRESENTATIVES

JIM MORRISON
REPRESENTATIVE, 121ST DISTRICT
P.O. Box 366
COLBY, KANSAS 67701
(785) 462-3264

STATE CAPITOL Rm 174-W
TOPEKA, KANSAS 66612-1504
(785) 296-7676
jmorrison@ink.org
www.ink.org/public/legislators/jmorrison

COMMITTEE ASSIGNMENTS
Chairman:
JOINT COMMITTEE ON
INFORMATION TECHNOLOGY
Chairman:
SELECT COMMITTEE ON
INFORMATION MANAGEMENT
MEMBER:
HEALTH & HUMAN SERVICES
Member:
EDUCATION

Credentialing Sub-Committee

Chair Jim Morrison
Vice-Chair Tricia Lightner
Members Sue Storm
Gwen Welshimer
Nancy Kirk
Lana Gordon
Ray Merrick

Each issue requires a written majority report prior to being voted on by the full committee. It allows for a minority report as well. Reports must be submitted to the committee members in a reasonable time to enable members to consider and read the report(s).

- 1st Issue "Decision Tree"
- 2nd Issue Consider and hear testimony on HB 2117

We have only until February 20th. That is our last day of committee meetings before turnaround.

applicant occupational or professional group of health care personnel should be credentialed. Further, if all criteria established in statute and rules and regulations are met, and credentialing by the state is appropriate, the secretary also recommends: (1) the level or levels of credentialing, (2) an agency to be responsible for the credentialing process, and (3) such matters as the secretary deems appropriate to include in legislation relating to the recommendation for credentialing.

Legislation

No group of health care personnel can be credentialed by the state except as an act of the legislature. The entire credentialing review process constitutes recommendations to the legislature and is not binding upon it. Should the applicant group be recommended for credentialing, it is the responsibility of the applicant group to draft a bill to be introduced to the legislature.

Credentialing Criteria

The technical committee and the secretary are bound by statute (KSA 65-5003) to make findings in an objective, unbiased manner based upon criteria found under KSA 65-5006 (a). It is the burden of the applicant to bring forth *clear and convincing evidence* that the health care occupation or profession should be credentialed. Evidence must be *more than hypothetical or testimonial* in nature. *All* of the following criteria must be met in order for the recommendation from the committee or the secretary to support credentialing:

- (1) The unregulated practice of the occupation or profession *can harm or endanger* the health, safety or welfare of the public and the potential for such harm is *recognizable and not remote*;
- (2) the practice of the occupation or profession requires an *identifiable body of knowledge or proficiency* in procedures, or both, acquired through *a formal* period of advanced study or training, and the public needs and will benefit by assurances of *initial and continuing occupational or professional ability*;
- (3) if the practice of the occupation or profession is performed, for the most part, under the direction of other health care personnel or inpatient facilities providing health care services, such arrangement is *not adequate* to protect the public from persons performing non-credentialed functions and procedures;
- (4) the public is *not effectively protected* from harm by *certification* of members of the occupation or profession or by *means other than credentialing*;
- (5) the effect of credentialing of the occupation or profession on the *cost of health care* to the public is *minimal*;

- (6) the effect of credentialing of the occupation or profession on the *availability of health care personnel* providing services provided by such occupation or profession is *minimal*;
- (7) the *scope of practice* of the occupation or profession is *identifiable*;
- (8) the *effect* of credentialing of the occupation or profession on the scope of practice of *other health care personnel*, whether or not credentialed under state law, is *minimal*; and
- (9) *nationally* recognized *standards* of education or training *exist* for the practice of the occupation or profession and are identifiable.

If *all* of the preceding criteria are affirmed after consideration of evidence and testimony, the recommendation shall be in support of credentialing. Reports from the committee or the secretary must contain specific findings on the preceding criteria. Any recommendation for credentialing must follow the philosophy that the *least regulatory means of protecting the public is preferred*, with consideration of the following alternatives, from least to most regulatory:

- (1) *Statutory regulation*, other than registration or licensure, by the creation or extension of statutory causes of *civil action*, the creation or extension of *criminal* prohibitions or the creation or extension of *injunctive remedies* is the appropriate level when this level will adequately protect the public's health, safety or welfare.
- (2) *Registration* is the appropriate level when statutory regulation under paragraph (a)(1) is not adequate to protect the public's health, safety or welfare and when registration will adequately protect the public health, safety or welfare by *identifying practitioners* who possess certain *minimum occupational or professional skills* so that members of the public may have a substantial basis for relying on the services of such practitioners.
- (3) *Licensure* is the appropriate level when statutory regulation under paragraph (a)(1) and registration under paragraph (a)(2) is *not adequate* to protect the public's health, safety or welfare and when the occupational or professional groups of health care personnel to be licensed *perform functions not ordinarily performed by persons in other occupations or professions*.

Who May Submit a Credentialing Application

Any organization or organizations may submit a credentialing application. The application must request that a specific health care profession or occupation be credentialed (KAR 28-60-1). The organizations submitting an application are referred to as the "applicant." The applicant organizations do not have to consist of members of the profession or occupation that they are seeking to credential (KAR 28-60-1). However, usually the applicant organizations are comprised of members of the profession or occupation that is the subject of the application.

Matters to Consider Prior to Submitting an Application

Any organization planning to develop a credentialing application should have a clear understanding of the depth of information and data required throughout the process. This manual is the instrument for acquiring the necessary understanding.

Please read it carefully.

Approaching a legislative change, whether creating or modifying, requires the applicant group to consider whether it has the following:

Commitment. Members of the applicant group must have resolve regarding what is being requested of the state (i.e., requirements for education, training, definition of scope of practice, assessing initial and continued competency, disciplinary measures, ethics, etc.).

Time. The process requires considerable preparation and substantiation of information, written and in person. Applicant members must be able to develop a thorough application and have designated leaders participating in the technical committee meetings and the legislative process.

Network. Much information and data is required in order to compare, contrast and evaluate the profession or occupation in determining answers to the statutory and regulatory criteria. Local, regional and national (perhaps multi-national) data regarding the proposed health occupation or profession is needed. In order to proceed quickly, access to reliable data is essential.

Financial resources. An initial application fee of \$1,000 must be paid in full before the review process may be started. Other services may be required throughout the process in response to inquiries or questions regarding the application. Communication expenses, written application and response costs, and telecommunications costs may be required. In addition, applicant groups may find it to their benefit to retain consultative services (such as legal or legislative services).

Contact Person

Any questions regarding the credentialing review program and all inquiries or correspondence with the technical committee should be directed to:

Director
Health Occupations Credentialing Program
Bureau of Health Facilities
Kansas Department of Health and Environment
900 SW Jackson, Suite 1051 S
Topeka, Kansas 66612-1290
(785) 296-1281 or 296-6647

STATE OF KANSAS

JIM MORRISON
REPRESENTATIVE, 121ST DISTRICT
(Sherman, Thomas, Sheridan and Graham Counties)
P.O. Box 366
COLBY, KANSAS 67701
(785) 462-3264
STATE CAPITOL BUILDING
300 SW 10th
Room 174-West
TOPEKA, KS. 66612-1504
(785) 296-7676
jmorriso@ink.org
www.ink.org/public/legislators/jmorriso



TOPEKA

HOUSE OF REPRESENTATIVES

COMMITTEE ASSIGNMENTS

Chairman:
JOINT COMMITTEE ON
INFORMATION TECHNOLOGY
Vice-Chairman
HEALTH AND HUMAN SERVICES
Member
EDUCATION
Member
E-GOVERNMENT TECHNOLOGY
MEMBER
ETHICS AND ELECTIONS

March 7, 2001

Agenda for Health and Human Services Sub-Committee 3/6/01

1. Pass out all existing attachments, make sure all have information.
2. Briefing by Dr. Wolf on HB 2463
3. Discussion of issues
4. Adjourn

Agenda for Health and Human Services Sub-Committee 3/5/01

1. Make sure all members and all of the conferees each have a copy of all known testimony regarding HB 2463 (Licensing of PT) and ask for questions or concerns regarding our meeting March 1, 2001
2. Briefing by Dr. Wolf on HB 2463
3. "Good and Welfare."
4. Adjourn.
5. Next meeting will be Tuesday March 6 at 1:30 in the East Lounge like we had on Thursday March 1. We will discuss issues surrounding HB 2463.

Agenda for Health and Human Services Sub-Committee 3/1/01

6. Chairman Morrison remarks and introductions
7. Marla Rhoden KDHE on Credentialing. She will speak to us regarding Occupational Therapists request for licensure in the 80s and how it relates to the current request for licensure. (HB 2315)
8. Discussion of the presentation and HB 2315. We should have all information in hand BEFORE we will interact with the conferees requesting HB 2315. We can discuss among ourselves and, if needed, with anyone else present in the room the reasons for requesting this bill and what we, as individuals might do to determine the facts by contacting people in our home districts.
9. Next meeting will be Monday, March 5 lasting only about ½ hour following the regular committee meeting in Memorial Hall. We will have the full time Tuesday, March 6 from 1:30 to 3:00 in the East lounge to discuss with anyone interested the content of HB 2315 regarding Occupational Therapists licensure.
10. "Good and Welfare."

11. Adjourn.

Agenda for Health and Human Services Sub-Committee 2/12/01

12. Chairman Morrison remarks and introductions
13. Comments from Ranking Minority Sue Storm
14. Comments from Vice-Chair Tricia Lightner
15. Discussion of committee rules and how to approach issues brought to our committee.
16. Presentation of possible item we will soon consider and **homework** (please read HB 2315 regarding Occupational Therapists and check with your districts ASAP.
17. Next meeting possible time and place.
18. Adjourn

Chairman thoughts:

- I really want us to individually and collectively fully understand the issues brought before us. "There is no pancake so thin it does not have two sides." It is our job to make sure both sides of that pancake are carefully looked at.
- We need to govern ourselves by a set of rules. The Chair may always reserve the right to be the FINAL authority in the event of it being necessary. If that has to happen then I believe that whatever we may be, discussing just might be a bit too controversial for the full committee or our understanding of the issue may not be complete.
- Agreement or compromise on just about anything is possible. It is our job to make that happen and to be responsible enough to make sure we have checked with all the parties that may be affected in the issue we are discussing.
- THERE IS NO RUSH. I do not believe we are in any emergencies here. Many that lobby us say "gee this has to happen now!" Nothing worth having happens quickly. Great things take time and I want us to do great things.
- **WARNING TO ALL** If members of this sub-committee are "pushed" or "threatened" the chair will not take that as being friendly to whatever the issue was that generated the "push." The pusher will find himself or herself on the outside looking in. This is a great group of people and I intend that the committee will be treated with respect and discussions will be in the open. If your issue is worthwhile then it can be pursued in the open and not behind closed doors.
- There is no such thing as an unexcused absence. If you cannot be at the meeting you will be excused and not recorded otherwise. I would hope there is enough interest to be in attendance and that you would want to be there.
- Assuming time permits the committee may ask questions of anyone during presentation by a conferee. The chair may limit that at any time.
- Conferees reading testimony will be cut off and asked to explain in summary what they desire.
- All written testimony must be provided to the sub-committee in advance of the sub-committee meeting when that is possible. Testimony held for several days and then presented to the committee to consider just during the hearing is not appropriate. If a group really wants our attention then getting information to

ALL members quickly and at the same time is recommended. If the Chair hears testimony was withheld the chair may not be very kind to the conferee.

Questions which might be asked: (Please add to them and I will make them a part of this "dynamic" document

1. Is the public better served by this change than they are now?
2. What are the protections for the public against improper practice in this field?
3. What oversight of the profession is in place and is it to be changed?
4. Has the group been through credentialing at least once?
5. Do other groups support the changes proposed?
6. Does it need to change?
7. Do others oppose the changes?
8. Is there a possible resolution that does not require legislative action?
9. What is the purpose of the change?
10. Is the change necessary? Why?
11. How does this change affect other fields of practice?
12. Why has this come to us at this time?
13. What are the interests (financial) of the parties involved? How much is the lobbyist being paid to assist with this issue? This IS a legitimate question as we are required to disclose our financial interest and holdings as elected people. It might be interesting to know what a lobbyist has budgeted for "working" an issue would it not?
14. Is the issue being requested by Kansas Interests or "out of state?"
15. Are Kansas communities and constituents the recipients of improvements provided by this change? If so – how? Show us the documentation and data proving the position.
16. Anecdotal information is interesting but generally not relevant to the issues we must address. We need to focus on fact not emotion. To that end is the issue one primarily involving "I feel" or "I have data showing.."
17. Percentages mean and tell more than do single incidences. Percentages reveal potential good or bad activity within a group. So what are the percentages of harm showing a need for this proposed change in credentialing?

Meeting of March 1, 2001 was held in the East Lounge on the fifth floor. Legislators in attendance were: Rep. Jim Morrison, Rep. Tricia Lightner, Rep. Sue Storm, Rep Ray Merrick, Rep Gwen Welshimer, Rep. Lana Gordon with Rep. Nancy Kirk being excused. Staff in attendance were: Norm Furse, and Renee Jefferies, Revisor's Office, Bill Wolfe, Legislative Research, and Gary Deeter, secretary.

Conferees and interested persons present were: Susan Linn, Board of Pharmacy, Philip Hurley, Ks. Academy of Family Physicians, Larry Buening, Healing Arts Board, Chip Wheelen, Ks. Osteopathic Society, Paul Silozsky, Susan Bechard and Candy Bahner, Kansas Physical Therapy Association, Marla Rhoden, KDHE, Steve Kearney, lobbyist for PT.

Marla Rhoden from KDHE in charge of Credentialing was present and provided us with information regarding the history of credentialing relative to Occupational Therapists (OTs). She noted that Attachment 1 showed current law compared with HB 2886 (year 2000) and HB 2315 (2001). She said the least regulation is most desirable, and a move from

registration to credentialing is considered unnecessary unless one can show the public is harmed under the present system. Several questions were asked by and of conferees present regarding both Occupational Therapy and Physical Therapy. No one representing the Occupational Therapists was present so after short discussion and information gathering the discussion switched to that of licensing Physical Therapists.

Candy Bahner provided Attachment 2 outlining PT issues regarding HB 2463 (licensure of Physical Therapists) and Attachment 3, a letter in support of the bill. In the absence of any representatives from the Occupational Therapists, Ms. Rhoden provided Attachment 4, a KDHE report of final findings and recommendations for OT credentialing.

General discussion centered around licensure for physical therapists, considering potential harm from lack of licensure and the lack of clarity regarding supervision by a physician.

Items:

- Distinction must be made between PTs in an institutional setting and PTs in private practice;
- Third-party payers often will not reimburse for PT except under referral and/or supervision of a physician;
- In some settings, PTs may evaluate, but not treat without the referral of a physician;
- Licensure can protect scope of practice, limiting who can call their service "physical therapy."
- Base education for PTs is presently a Master's Degree in PT;
- The Board of Healing Arts "certifies" PTs, but the certification actually meets only the requirements for registration;
- Both the OT and the PT bill intend to allow an individual to establish an independent private practice.

Meeting on Monday, March 5, 2001

Meeting took place at the conclusion of the regular HHS meeting in the auditorium of the Memorial Building. Attachments were distributed up to number 15. The Chair announced the next meeting for Tuesday, March 6, 2001, in the East Lounge at 1:30 p.m.

Meeting on Tuesday, March 6, 2001

Guest List: Phil Hurley, Ks Assn Family Physicians; Larry Buening, Board of Healing Arts; Chris Collins, Ks Medical Society; Kevin Barone, Hein & Weir; Tim Wood, Via Christi Health; Ron Gaches, Gaches Assoc; John Aureli, SRS Health Care Policy; Kevin Robertson, Ks Dental Assn; Tuck Duncan, Ks OT Assn; Candy Bahner, Ks PT Assn; Paul Silozsky, Ks PT Assn; Marla Rhoden, KDHE; Lesa Roberts, KDHE.

Staff: Bill Wolf, Legislative Research; Renae Jefferies, Revisor's Office; Gary Deeter, Secretary.

All members were present.

Bill Wolf walked the committee through the details of **HB 2463**. He noted the importance of exemptions (pp. 8-9), the lack of definition for "other health care provider" on pp. 9, 22, 25, and the need to define "under the direction of" for supervision of a PT assistant. He

reiterated the meaning of licensure—to define scope of practice and to prohibit all others from engaging in like practice without a license.

Ms. Jefferies distributed Attachment 18, the applicable statutes on credentialing (KSA 65-5001 through 5011).

The Chair invited discussion of the issues raised in **HB 2463**. The following items were discussed:

- Section 1 mentions, “evaluate and diagnose. Members and guests noted that there are different definitions for “diagnose,” depending on whether one is a PT or a physician.
- The issue of access was discussed. Present law allows a PT to evaluate but not treat without a referral from a physician.
- Members noted the fluid nature of undefined words. Larry Buening said “therapeutic” had certain statutory restrictions, but he was not sure if “therapy” could be included under present statutes.
- Representative Storm noted that licensure required a list of exceptions. Dr. Wolf said if a practice or skill is on the list of exclusions, the person can continue to do what he/she has been doing. If a practice or skill is not on the list, he/she cannot use the given title or do what is defined in the statute. Possible groups were listed to be considered on an exclusion list: respiratory therapists, EMTs, massage therapists, patient-supply firms, personal trainers, naturopaths, etc.
- Dr. Wolf said an effective licensure statute requires either a narrow scope of practice or a comprehensive list of exceptions. He said many other states do not protect scope of practice, only a title. They may call it licensure, but it is what Kansas calls registration—the protection of a title. Most other states do not protect scope of practice.
- It was noted that a restructuring of the credentialing statutes might be helpful.

NOTE: A copy of the KDHE archive on credentialing is available in Representative Morrison’s office.

STATE OF KANSAS

JIM MORRISON

REPRESENTATIVE, 121ST DISTRICT
(Sherman, Thomas, Sheldahl and Graham Counties)

P.O. Box 366
COLBY, KANSAS 67701
(785) 462-3264

STATE CAPITOL BUILDING
300 SW 10th
Room 174-West
TOPEKA, KS. 66612-1504
(785) 296-7676

jmorriso@ink.org

www.ink.org/public/legislators/jmorriso



TOPEKA

HOUSE OF REPRESENTATIVES

COMMITTEE ASSIGNMENTS

Chairman:

JOINT COMMITTEE ON
INFORMATION TECHNOLOGY

Vice-Chairman

HEALTH AND HUMAN SERVICES

Member

EDUCATION

Member

E-GOVERNMENT TECHNOLOGY

MEMBER

ETHICS AND ELECTIONS

March 8, 2001

The Honorable Representative Kent Glasscock
Speaker, Kansas House of Representatives
300 SW 10th, State Capitol Building
Room 380-West
Topeka, KS 66612

Dear Speaker Glasscock:

I am writing to request that my 8-member sub-committee in Health and Human Services know as the "Subcommittee on Health Credentialing" be allowed to:

1. Continue meeting to work on licensing issues (PTs and OTs possibly others as well) after the time that committees other than exempt ones cease meeting. Possible meetings before returning for the "veto session" would also be appreciated.
2. Continue as an intact group during the summer to develop a procedure for legislators to follow in assisting groups requesting changes in credentialing.

Rationale:

- Credentialing issues are very complex and require a special mechanism to help keep intact the health care "team" as various groups seek enhancements of responsibilities to operate within the team.
- We need a less formal mechanism to discuss issues openly and to help in negotiating how changes in scope, responsibilities or levels of credentialing may be accomplished.
- Our intent is to create a system of discussion that may be placed in statute as a guideline for discussions in the future. A similar system has been accomplished with the Joint Committee on Information Technology with its statutory requirements for technology projects to help guide the committee in oversight. The statutory legislation has taken years to create and has resulted in a much-improved process of dealing with technology in the state. It has helped lead Kansas to being in the top three (we are actually number 1 right now) of all states in use of and implementation of technology.

- We would like this same excellence to be known throughout the country regarding how we approach issues of human health and services.
- Neither technology or credentialing of health professionals is truly a political issue and is NOT partisan. That allows great freedom in conducting meetings by allowing the better informed within the group to lead in discussions. Sometimes that may actually be a lobbyist or a person working in the profession under discussion rather than a legislator.
- The group is diverse and very dedicated to helping achieve the best health care for the people of Kansas and is willing to move to the edge of enabling relationships between health groups and organizations to achieve the best of care for our citizens.
- This mechanism tends to remove the emotions that leads to "testy" lobbying of legislators. That could lead to the passage of legislation that may actually lower the care for citizens of the state.

I expect that to continue during the summer we would expect to create new legislation for the credentialing of Occupational Therapists and Physical Therapists to be presented on the first day of the 2002 session. In addition, we would have legislation to place into statute a suggested mechanism to continue the process in the future at the option of the Health Committee Chairman. That way our work will help any discussion in the future and help reduce the emotions that surround issues of scope and level of credentialing for health professionals in the state. The full health committee may then focus on policy issues of greater importance to the people of the state.

Summer meeting time should include at least 6 days for the subcommittee to finish the work. We would appreciate your support and recommendation to allow us the extended time to make the requested changes. Please also note that Chairman Boston is in support of this request.

Sincerely,

Rep. Jim Morrison

Rep. Garry Boston

Rep. Judy Showalter

Rep. Tricia Lightner

Rep. Sue Storm

Rep. Lana Gordon

Rep. Ray Merrick

Rep. Doug Patterson

Rep. Gwen Welshimer

March 12, 2001

The Honorable Representative Kent Glasscock
Speaker, Kansas House of Representatives
300 SW 10th, State Capitol Building
Topeka, Kansas 66612

Dear Speaker Glasscock:

I respectfully request that the subcommittee studying credentialing be allowed to remain intact and continue to meet during the balance of the 2001 session and be allowed to meet two or three times during the interim. The Health and Human Services Committee has numerous requests to consider licensing various disciplines each session. Due to the complication of issues in this regard, it is desirable to have members on the committee who have extended knowledge regarding issues involved such as "scope of practice, overlap of discipline, independent practice and evolving disciplines not recognized at the present time.

Representative Jim Morrison was appointed as the Chairman of the committee and he has provided a virtual training course for the current members. I believe that this focus group will help the standing committee in determining the qualifications and in working out details regarding parallel disciplines. We already have agreement with the Occupational Therapy, Physical Therapists and also a independent practice movement by the Dental Hygienists.

Should this request meet with your approval, I would further request that the same members of the committee be permitted to serve for reasons of continuity. I have recently appointed Representative Doug Patterson to serve on the committee so that there would be someone on the committee with legal training.

I have read and acquiesce with Representative Morrison's letter to you dated March 8th, 2001 with respect to the details that would govern the subcommittee. Thank you for your consideration.

Sincerely,

Garry Boston
Representative

15

1-16