

Approved: May 15, 2002
Date

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE.

The meeting was called to order by Chairperson Senator Susan Wagle at 9:00 a.m. on May 4, 2002 in Room 231-N of the Capitol.

All members were present except: Senator David Haley
Senator Chris Steineger

Committee staff present: Mr. Norm Furse, Revisor of Statutes
Ms. Emalene Correll, Kansas Legislative Research Department
Ms. Lisa Montgomery, Revisor of Statutes
Ms. Margaret Cianciarulo, Administrative Assistant

Conferees appearing before the committee:

Others attending: See attached guest list.

Update on HB2711 - health care providers' rights of conscience act,

Upon calling the meeting, Chairperson Susan Wagle announced that today the Committee would be hearing and discussing updates on previously heard bills. She began by stating there were not enough votes in Committee to pass HB2711, health care providers' rights of conscience act, as written. She stated, there was thought about passing out a negotiated bill that would allow the rights of conscience for a surgical abortion and a medical abortion, which would mean something that is done by a pill, ex. RU486, but it was just learned this morning that the RU486 is regulated by the FDA and has to be given in a doctor's office with three physician visits, meaning, a pharmacist does not give out the RU486. So if the Committee were to pass out the bill, it really would not offer anything. The Chair suggested the Committee wait, and if there is something offered in a day or two, this can be looked at.

Update on previously heard SB610 - concerning naturopathy; providing for the licensure and regulation of practitioners thereof; providing for administration by the board of healing arts

Next she stated, a licensure of naturopaths bill was passed by the Committee and there was opposition to it, but not nearly the opposition that came out of the House, so this bill has been stalled. However, she stated that the physicians and naturopaths have come to an agreement. It is not a licensure bill, but it is a bill for registration. This has been negotiated and is ready to go and does not think there is objection to the bill.

The Chair then stated, the other problem was that the Senate passed out the physical therapy bill, 40-0, it was sent to the House, and other health care providers had objections with it to the point there was never a hearing. The Chair mentioned she was holding the O.T.'s bill as a vehicle (which is HB2315), but now the concern is that it is not fair to not give the O.T.'s their bill when there is support for the bill.

In conclusion, she wanted the Committee to understand the negotiated agreement on naturopaths, Mr. Furse to explain this bill to the Committee, but with the understanding that does not mean the Committee would be working anything. Her thoughts are to kick out the OT bill, and whatever the House agrees to we know we can add on the floor. But first, she wanted to go over the naturopaths bill (SB610).

The Chair stated there was a proposal in front of the Committee and she called upon Mr. Furse to explain the proposal. He stated that the House Committee is considering, not acted yet but have worked through, (in quite a number of hearings in their subcommittee on credentialing and in to the whole committee with some other discussion), and ended up with a proposal that right now discusses registration throughout the bill rather than licensure. Mr. Furse stated this would mean, in legal terms, what is protected would be the title or the terms of naturopathic doctor that these registered people would be called, it does not protect the scope of practice of naturopathy. However, he went on to say, the scope of practice in any healing arts situation is protected under the healing arts act which protects the scope of practice of anyone doing any healing for money.

In effect, registration would allow:

- 1) naturopaths to practice and call themselves these certain terms which no one else would be allowed to use yet through the healing arts act; and,
- 2) some protection is in effect for scope of practice but it would not be part of the naturopathy act as the House is currently considering (and subject to change).

He stated, what this proposal does to the bill this Committee passed out would be to:

- 1) change "licensure" to "registration" throughout;
- 2) delete:
 - a) the exclusion section (in the Senate licensure version of the bill there was a lengthy exclusion section of those persons who will not be affected by licensure aspect of the act).
 - b) the amendatory sections in the bill (because they were related to the healing arts act, the exclusion there for the naturopaths and to the pharmacy act).

The language is generally the same as it came out of the Senate Committee with some technical massaging.

The House subsidy changes:

- a) the naturopathic medicine would be modified;
- b) as shown in New Sec. 2 (b) the scope of practice statements would be moved up to the definition section to allow scope of practice; new language added "and includes" which would pick up the substantive authorization in the scope of practice so the practice of naturopathy medicine would include "prescribing, recommending or administering....." (See in New Sec. 2: (1) which list out a number of substances that are not designated as prescription drugs or controlled substances, (2) health care which would also include health care counseling, nutritional counseling, as so forth, and (3) include substances on the naturopathic formulary which are authorized for intramuscular or intravenous administration pursuant to a written protocol (4) noninvasive physical exams and veinpuncture to obtain blood for lab test and orificial exams, excluding endoscopies;
- c) in (5) of the New Sec. 2, "minor office procedures" would be included and they were not otherwise found in the bill so this would be inclusion of this draft which the House has not addressed this yet and (6) naturopathic acupuncture is similar to what the Committee already had;
- d) still on page 2, the bill reads "Naturopathic medicine or naturopathy shall not include surgery, obstetrics, administering ionizing radiation, or prescribing, dispensing or administering any controlled substance or any prescription-only drugs except those listed on the naturopathic formulary adopted by the board pursuant to this act." Mr. Furse stated this proposal would set up a formulary committee to advise the board in adopting substances that the naturopaths might be able to use as part of their practice;
- e) © (d), (e), and (f) are all similar to the Senate version;
- f) "Minor office procedures" (g) is clarified the language to include "shall not include the suturing, repairing, alteration or removal of tissues or the use of general or spinal anesthesia;
- g) "Naturopathic physical applications" (h) includes a language change in the last line where "naturopathic musculoskeletal technique" was substituted for something like "manipulative technique musculoskeletal" which was found in the previous draft;

h) "Topical drugs" (i) includes substances listed but does not include prescription only drugs;

I) "Written protocol" is used here as a formal written agreement between a doctor and a naturopathic doctor registered by the act, and a person licensed to practice medicine and surgery. "Collaborative agreement" was the previous term that was considered and the House committee submitted this language change;

j) pages 4, 5, and six get into New Sec. 3, 4, 5, and six, that are really procedural and include minor language massaging and technical cleanups;

k) New Sec. 7, the fee section on page 7, basically the licensure act set the fees similar for the fees of M.D.'s, D.O.'s fees in the healing arts act. The House committee is considering if they go with registration to use the fees that are more appropriate for registered persons and so the larger fees that were in the first version of the bill would be changed to the fees similar to those of other registered (PT.'S, O.T.'s, etc.);

l) on page 8, sub. (3) is a policy procedure this Committee made this that grants for revocation of a license for being convicted on a felony and the House is considering reinserting the subsequent language if the acts of which a person is convicted are found to have a direct bearing on the practice of persons

m) on page 10, New Sec. 10, in the licensure bill the language says that it is unlawful for a person licensed to practice naturopathic medicine and under the registration act the practice naturopathic medicine would be eliminated but the terms would be protected as in this section as with the Senate bill with protected terms which are listed in this section. A violation of this has traditionally been a class B misdemeanor;

n) New Sec. 12 creates the naturopathic formulary advisory committee providing that the board of healing arts would adopt the naturopathic formulary which lists the drugs and substances which are approved for intramuscular or intravenous administration by a naturopathic doctor pursuant to the order of a physician, so the formulary could list and approve the drugs but still subject to the order of a physician. The board of healing arts is going to create the formulary but this advisory committee is going to recommend to the board what substances are on that formulary. He then stated who would be on the advisory committee (ex. Licensed pharmacists, two persons licensed to practice medicine and surgery, etc.);

o) New. Sec. 13 is the language relating to naturopathic acupuncture and is essentially the same as what was passed in the Senate;

p) New Sec. 14 is the naturopathic advisory council and the language has not changed;

q) New Sec. 15 is language relating to violation of the act;

r) New Sec. 16 relates to adjudicative proceedings and this section also passed the Senate;

s) New Sec. 17 is the professional liability insurance act and the House may be considering some changes;

t) and finally, New Sec. 18 would be a new section in the bill adding the confidential communications "are placed on the same basis as provided by law between" the doctor and the patient. A copy of this bill is ([Attachment 1](#)) attached hereto and incorporated into the Minutes as referenced.

Mr. Furse then stood before the Committee for questions. A discussion ensued between Senator Salmans, Ms. Correll and Mr. Furse regarding such issues as third party payment, license reverses, registration, affect people grand fathered or people out-of-state, previous law allows individuals to continue practicing having nothing to do with licensure, and does this bill establish some criteria of schools or qualifications.

As there was no further discussion, the Chair stated that the reason she wanted the Committee to understand this new bill is because she thinks they are close to negotiating and hopeful that some time we can run this on the Senate floor.

Discussion on SB583 - an act relating to physical therapy; concerning physical therapists

The Chair said the Senate passed the physical therapy bill 40-0, and then other providers became concerned about the bill. She stated that Mr. Tom Bruno, representing the Athletic Trainers (A.T.'s), said they had a concern about the bill as it was written and have negotiated a compromise with the physical therapists (PT.'S). The Chair then asked Mr. Bruno to explain conceptually what their concern was. A copy of his amendment is (Attachment 2) attached hereto and incorporated into the Minutes as referenced.

The Chair then recognized Mr. Steve Kearney, on behalf of the physical therapists, to express his. A copy of page 1 and 2 of **SB583** that Mr. Kearney passed out to the Committee is (Attachment 3) attached hereto and incorporated into the Minutes as referenced.

The Chair then announced that there is a compromise between the athletic trainers and the physical therapists and then the medical society had a concern about the bill also. She then asked Ms. Chris Collins, on behalf of the Kansas Medical Society, to explain their balloon, as they would not support the bill without it. A copy of page 3 of **SB583** is (Attachment 4) attached hereto and incorporated into the Minutes as referenced

The Chair asked Ms. Collins if the PT.'S agreed with this amendment and Ms. Collins said yes.

The Chair then stated she wanted to explain to the Committee where the P.T. bill was at and why it hasn't passed both sides. She also mentioned Senator Salmans had an amendment pertaining to physicians at Topeka State Hospital that has not passed the other side.

Discussion of HB2315 - an act concerning occupational therapists; licensure thereof.

The Chair then asked if the Committee would be willing to the cleanup the O.T.'s bill which is **HB2315** that does have some technical amendments that need to be made to that, kicking it out, getting it read in and then on Monday, May 6, 2002, they can debate on the floor, push it through, and then if the House concurs, the O.T.'s will have a bill. The Chair then said if the remaining bills were negotiated (the PT.'S, naturopaths, and Senator Salmans amendment), they can add them on the floor.

The Chair then asked Mr. Furse to cover the technical amendments for the occupational therapists. Mr. Furse stated the language change from "client" to "an individual" on page 1, line 40 and on page 9, line 28, from "therapist" to "therapy assistant" were the two technical changes discussed earlier by the Committee. A copy of these changes is (Attachment 5) attached hereto and incorporated into the Minutes by reference.

A discussion ensued between Ms. Correl, Senators Wagle, Praeger and Barnett, and Mr. Tuc Duncan concerning such issues as disability prevention methods and techniques, adding a whole new laundry list of things to the OT act, a physical therapy bill, clarification of stating exclusively what O.T.'s can do, this bill not part of a practice act, occupational therapy intervention, and scope of practice.

A motion was made by Senator Brungardt to move the technical amendments, seconded by Senator Praeger and the motion carried. Senator Brungardt made a motion to pass the bill out favorably. This was seconded by Senator Praeger and the motion carried. Senator Salmans made a substitute motion to pass it out with the amendment to license the people in the hospitals. This was not seconded.

Senator Praeger asked where Senator Salmans amendment was. The Chair stated there has not even been a hearing for this or the P.T. bill. The Chair said if they could get a conference committee scheduled then we can put the Senate positions in these conference committees.

As there was no further discussion, the Chair adjourned the meeting.

Adjournment

Adjournment time was at 10:59 a.m.

The next meeting is on call of the Chair.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

DATE: Saturday, May 4, 2002

NAME	REPRESENTING
LARRY BUENING	BD OF HEALING ARTS
Hillary Hayes	Federico Consulting
Selen Pedigo	Governor's Office
Carla Mahany	PPKM
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
FONA BRONCO	Ks. Athletic Training Society
Garnie Ann Power	K.S GOVT Consulting
Chris Collins	Kansas Medical Society

Naturopathic Doctor Proposal
(Revised 5-4-02)

New Section 1. Sections 1 to 18, inclusive, shall be known and may be cited as the naturopathic doctor registration act.

New Sec. 2. As used in sections 1 to 18, inclusive and amendments thereto:

(a) "Naturopathic doctor" means a doctor of naturopathic medicine who is authorized and registered pursuant to this act.

(b) "Naturopathic medicine," or "naturopathy" means a system of health care practiced by naturopathic doctors for the prevention, diagnosis and treatment of human health conditions, injuries and diseases, that uses education, natural medicines and therapies to support and stimulate the individual's intrinsic self-healing processes, and includes prescribing, recommending or administering: (1) Food, food extracts, vitamins, minerals, enzymes, whole gland thyroid, botanicals, homeopathic preparations, nonprescription drugs, plant substances that are not designated as prescription drugs or controlled substances, topical drugs as defined in subsection (i) of section 2, and amendments thereto; (2) health care counseling, nutritional counseling and dietary therapy, naturopathic physical applications, barrier contraceptive devices; (3) substances on the naturopathic formulary which are authorized for intramuscular or intravenous administration pursuant to a written protocol entered into with a physician who has entered into a written protocol with a naturopathic doctor registered under this act; (4) noninvasive physical examinations, and venipuncture to obtain

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Attachment #1

blood for clinical laboratory tests and official examinations, excluding endoscopies; (5) minor office procedures; and (6) naturopathic acupuncture. Naturopathic medicine or naturopathy shall not include surgery, obstetrics, administering ionizing radiation, or prescribing, dispensing or administering any controlled substances as defined in K.S.A. 65-4101, and amendments thereto, or any prescription-only drugs except those listed on the naturopathic formulary adopted by the board pursuant to this act.

(c) "Board" means the state board of healing arts.

(d) "Approved naturopathic medical college" means a college and program granting the degree of doctor of naturopathy or naturopathic medicine that has been approved by the board under this act and which college and program requires at a minimum a four-year, full-time resident program of academic and clinical study.

(e) "Homeopathic preparations" means substances and drugs prepared according to the official homeopathic pharmacopoeia recognized by the United States food and drug administration.

(f) "Naturopathic acupuncture" means the insertion of fine metal needles through the skin at specific points on or near the surface of the body with or without the palpation of specific points on the body and with or without the application of electric current or heat to the needles or skin or both to treat human disease and impairment and to relieve pain.

(g) "Minor office procedures" means care incidental to

superficial lacerations and abrasions, superficial lesions and the removal of foreign bodies located in the superficial tissues, except eyes, and not involving blood vessels, tendons, ligaments or nerves. "Minor office procedures" includes use of antiseptics, but shall not include the suturing, repairing, alteration or removal of tissue or the use of general or spinal anesthesia. Minor office procedures does not include anesthetics or surgery.

(h) "Naturopathic physical applications" means the therapeutic use by naturopathic doctors of the actions or devices of electrical muscle stimulation, galvanic, diathermy, ultrasound, ultraviolet light, constitutional hydrotheraphy, naturopathic musculoskeletal technique and therapeutic exercise.

(i) "Topical drugs" means topical analgesics, antiseptics, scabicides, antifungals and antibacterials but does not include prescription only drugs.

(j) "Physician" means a person licensed to practice medicine and surgery.

(k) "Written protocol" means a formal written agreement between a naturopathic doctor registered under this act and a person licensed to practice medicine and surgery. Any licensee of the board entering into a written protocol with a registered naturopathic doctor shall notify the board in writing of such relationship by providing such information as the board may require.

New Sec. 3. (a) The board, as hereinafter provided, shall administer the provisions of this act.

(b) The board shall judge the qualifications of all applicants for examination and registration, determine the applicants who successfully pass the examination, duly register such applicants and adopt rules and regulations as may be necessary to administer the provisions of this act.

(c) The board shall issue a registration as a naturopathic doctor to an individual who prior to the effective date of this act (1) graduated from a school of naturopathy that required four years of attendance and was at the time of such individual's graduation accredited or a candidate for accreditation by the board approved accrediting body, (2) passed an examination approved by the board covering appropriate naturopathic subjects including basic and clinical sciences and (3) has not committed an act which would subject such person to having a registration suspended or revoked under section 8, and amendments thereto.

(d) The board shall keep a record of all proceedings under this act and a roster of all individuals registered under this act. Only an individual may be registered under this act.

New Sec. 4. (a) An applicant applying for registration as a naturopathic doctor shall file a written application on forms provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements:

(1) Education: The applicant shall present evidence satisfactory to the board of having successfully completed an educational program in naturopathy from an approved naturopathic medical college.

(2) Examination: The applicant shall pass an examination as provided for in section 5 and amendments thereto.

(3) Fees: The applicants shall pay to the board all applicable fees established under section 7 and amendments thereto.

(b) The board shall adopt rules and regulations establishing the criteria for an educational program in naturopathy to obtain successful recognition by the board under paragraph (1) of subsection (a). The board may send a questionnaire developed by the board to any school or other entity conducting an educational program in naturopathy for which the board does not have sufficient information to determine whether the program should be recognized by the board and whether the program meets the rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the program to be considered for recognition. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about an educational program in naturopathy. In entering such contracts the authority to recognize an educational program in naturopathy shall remain solely with the board.

New Sec. 5. Each applicant for registration under this act shall be examined by a written examination or examinations chosen by the board to test the applicant's knowledge of the basic and clinical sciences relating to naturopathy, and naturopathy theory

and practice, including the applicant's professional skills and judgment in the utilization of naturopathic techniques and methods, and such other subjects as the board may deem useful to determine the applicant's fitness to practice naturopathy.

New Sec. 6. (a) The board may waive the examination or education requirements, or both, and grant registration (1) to any applicant who presents proof of current authorization to practice naturopathy in another state, the District of Columbia or territory of the United States which requires standards for authorization to practice determined by the board to be equivalent to the requirements for registration under this act and (2) to any applicant who presents proof that on the day preceding the effective date of this act that the applicant was practicing under K.S.A. 65-2872a and amendments thereto.

(b) At the time of making an application under this section, the applicant shall pay to the board the application fee as required under section 7 and amendments thereto.

(c) The board may issue a temporary registration to an applicant for registration as a naturopathic doctor who applies for temporary registration on a form provided by the board, who meets the requirements for registration or who meets all the requirements for registration except examination and who pays to the board the temporary registration fee as required under section 7 and amendments thereto. The person who holds a temporary registration shall practice only under the supervision of a registered naturopathic doctor. Such temporary registration

shall expire one year from the date of issue or on the date that the board approves the application for registration, whichever occurs first. No more than one such temporary registration shall be permitted to any one person.

New Sec. 7. (a) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:

Application fee, not more than.....	\$200
Temporary registration fee, not more than.....	\$30
Registration renewal fee, not more than.....	\$150
Registration late renewal additional fee, not more than...	\$250
Registration reinstatement fee, not more than.....	\$250
Certified copy of registration, not more than.....	\$30
Written verification of registration, not more than.....	\$25

(b) The board shall charge and collect in advance fees for any examination administered by the board under the naturopathic doctor registration act as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination. If the examination is not administered by the board, the board may require that fees paid for any examination under the naturopathic doctor registration act be paid directly to the examination service by the person taking the examination.

New Sec. 8. (a) The board may deny, refuse to renew, suspend or revoke a registration where the registrant or applicant for registration has been guilty of unprofessional conduct which has

endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

(1) Obtaining a registration by means of fraud, misrepresentation or concealment of material facts;

(2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board;

(3) being convicted of a felony if the acts for which such person was convicted are found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of a naturopathic doctor;

(4) violating any lawful order or rule and regulation of the board; and

(5) violating any provision of this act.

(b) Such denial, refusal to renew, suspension or revocation of a registration may be ordered by the board after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act. Upon the end of the period of time established by the board for the revocation of a registration, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement. An application for reinstatement shall be accompanied by the registration reinstatement fee established under section 7 and amendments thereto.

New Sec. 9. (a) Registrations issued under this act shall be effective for a period of one year and shall expire at the end of

such period of time unless renewed in the manner prescribed by the board, upon the payment of the registration renewal fee established under section 7 and amendments thereto. The board may establish additional requirements for registration renewal which provide evidence of continued competency. The board for registration renewal shall require completion of at least 25 hours annually of continuing education approved by the board. The board may provide for the late renewal of a registration upon the payment of a late fee established under section 7 and amendments thereto, but no such late renewal of a registration may be granted more than five years after its expiration.

(b) A person whose registration is suspended shall not engage in any conduct or activity in violation of the order or judgment by which the registration was suspended. If a registration revoked on disciplinary grounds is reinstated, the registrant, as a condition of reinstatement, shall pay the registration renewal fee and any late fee that may be applicable.

New Sec. 10. The board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the

director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person designated by the president of the board.

New Sec. 11. (a) It shall be unlawful for any person who is not registered under this act as a naturopathic doctor or whose registration has been suspended or revoked to hold oneself out to the public as a registered naturopathic doctor, or use the abbreviation of "N.D." or the words "naturopathic doctor," "doctor of naturopathy," "doctor of naturopathic medicine," "naturopath," "naturopathic medical doctor" or any other words, letters, abbreviations or insignia indicating or implying that such person is a naturopathic doctor. A violation of this subsection (a) shall constitute a class B person misdemeanor.

(b) No statute granting authority to persons licensed or registered by the state board of healing arts shall be construed to confer authority upon naturopathic doctors to engage in any activity not conferred by this act.

New Sec. 12. The board shall adopt a naturopathic formulary which lists the drugs and substances which are approved for intramuscular or intravenous administration by a naturopathic doctor pursuant to the order of a physician. The board shall appoint a naturopathic formulary advisory committee which shall advise the board and make recommendations on the list of substances which may be included in the naturopathic formulary. The naturopathic formulary advisory committee shall consist of a licensed pharmacist, a person knowledgeable in medicinal plant

chemistry, two persons licensed to practice medicine and surgery, and two naturopathic doctors registered under this act.

New Sec. 13. In order to practice naturopathic acupuncture, a naturopathic doctor shall obtain a naturopathic acupuncture specialty certification from the board. The board may issue this specialty certification to a naturopathic doctor who has:

(a) Submitted an application and paid certification fee to be determined by the board;

(b) completed basic oriental medicine philosophy from a college or university approved by the board and 500 hours of supervised clinical training under a trained naturopathic acupuncturist's supervision.

New Sec. 14. (a) There is established a naturopathic advisory council to advise the board in carrying out the provisions of this act. The council shall consist of five members, all citizens and residents of the state of Kansas appointed as follows: Three members shall be naturopathic doctors appointed by the state board of healing arts; one member shall be the president of the state board of healing arts or a person designated by the president; and one member shall be from the public sector who is not engaged, directly or indirectly, in the provision of health services appointed by the governor. Insofar as possible persons appointed to the council shall be from different geographic areas. If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant

position for the unexpired term, if any. The members of the council appointed by the governor shall be appointed for terms of three years and until a successor is appointed. The members appointed by the state board of healing arts shall serve at the pleasure of the state board of healing arts. If a member is designated by the president of the state board of healing arts, the member shall serve at the pleasure of the president.

(b) Members of the council attending meetings of the council, or attending a subcommittee meeting thereof authorized by the council, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto from the healing arts fee fund.

New Sec. 15. When it appears to the board that any person is violating any of the provisions of this act, the board may bring an action in a court of competent jurisdiction for an injunction against such violation without regard to whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

New Sec. 16. All state agency adjudicative proceedings under the naturopathic doctor registration act shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the act for judicial review and civil enforcement of agency actions.

New Sec. 17. A policy of professional liability insurance approved by the commissioner of insurance and issued by an insurer duly authorized to transact business in this state shall

be maintained in effect by each naturopathic doctor as a condition to rendering professional service as a naturopathic doctor in this state.

New Sec. 18. The confidential relations and communications between a naturopathic doctor and the naturopathic doctor's patient are placed on the same basis as provided by law as those between a physician and a physician's patient in K.S.A. 60-427, and amendments thereto.

the words or letters physical therapist, physiotherapist, registered physical therapist, P.T., Ph. T. or R.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist, without a valid existing certificate of registration as a physical therapist issued to such person under the provisions of this act, shall be guilty of a class B nonperson misdemeanor. *A physical therapist shall use the letters P.T. in connection with the physical therapist's name or place of business to denote registration under this act.*

(b) Any person who, in any manner, represents oneself as a physical therapist assistant, or who uses in connection with such person's name the words or letters physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist assistant, without a valid existing certificate as a physical therapist assistant issued to such person pursuant to the provisions of this act, shall be guilty of a class B nonperson misdemeanor. *A person or business entity, its employees, agents or representatives shall not use in connection with that person's name or the name or activity of the business, the words physical therapy, physical therapist, physiotherapy, physiotherapist, the letters P.T., D.P.T., R.P.T., Ph.T. or any other words, abbreviations or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied, unless such services are provided by a physical therapist or a physical therapist assistant under the direction of a physical therapist registered pursuant to this act. A person, business or entity, its employees, agents or representatives shall not use in connection with such person's name or the name or activity of the business the words physiotherapy or physical therapy unless such person is duly licensed to provide such treatment under the laws of this state or is a registered physical therapist under this act. A person or business entity shall not advertise or otherwise promote another person as being a physical therapist or physiotherapist unless the individual so advertised or promoted is registered as a physical therapist under this act. A person or business entity who offers, provides or bills any other person for services shall not characterize those services as physical therapy or physiotherapy unless the individual performing those services is a person registered as a physical therapist under this act.*

(c) A physical therapist assistant shall use the letters P.T.A. in connection with that person's name to denote certification hereunder.

(d) A person shall not use the title physical therapist assistant, the letters P.T.A., C.P.T.A. or P.T. Asst. or any other words, abbreviations or insignia in connection with that person's name to indicate or imply, directly or indirectly, that the person is a physical therapist assistant unless that person is certified as a physical therapist assistant pursuant to this

However, the foregoing shall not be construed to prohibit the provision of such services in the office of a physician by persons not registered pursuant to this act.

*Tom
Kearney*

*Senate Public Health & Welfare Comm.
Date: May 4, 2002
Attachment #2*

3

As Amended by Senate Committee

Session of 2002

SENATE BILL No. 583

By Committee on Public Health and Welfare

2-13

AN ACT relating to physical therapy; concerning physical therapists; amending K.S.A. 65-2901 and K.S.A. 2001 Supp. 65-2913 and repealing the existing sections.

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

Section 1. K.S.A. 65-2901 is hereby amended to read as follows: 65-2901. (a) As used in this act, the term "physical therapy" means a health specialty concerned with the evaluation, treatment or instruction of human beings to assess, prevent and alleviate physical disability and pain. This includes the administration and evaluation of tests and measurements of bodily functions and structures in aid of treatment; the planning, administration, evaluation and modifications of treatment and instruction, including the use of physical measures, activities and devices for prevention and therapeutic purposes, and the provision of consultative, educational and advisory services for the purpose of reducing the incidence and severity of physical disability and pain. The use of roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, and the practice of medicine and surgery are not authorized or included under the term "physical therapy" as used in this act the care and services provided by a physical therapist or a physical therapist assistant under the direction and supervision of a physical therapist that is registered pursuant to this act.

(b) "Physical therapist" means a person who practices physical therapy as defined in this act and delegates selective forms of treatment to supportive personnel under the supervision of such person is registered to practice physical therapy pursuant to this act. Any person who successfully meets the requirements of K.S.A. 65-2906 and amendments thereto shall be known and designated as a physical therapist and may designate or describe oneself as a physical therapist, physiotherapist, registered physical therapist, P.T., Ph. T. or R.P.T. Physical therapists may evaluate patients without physician referral but may initiate treatment only after consultation with and approval by a physician licensed to practice medicine and surgery, a licensed podiatrist or a licensed dentist in appropriately related cases.

Senate Public Health & Welfare Committee
Date: Mar 4, 2002
Attachment 3

1 (c) "Practice of physical therapy" means examining, evaluating and
2 testing individuals with mechanical, physiological and developmental im-
3 pairments, functional limitations and disabilities or other health and
4 movement-related conditions in order to determine a diagnosis for phys-
5 ical therapy, prognosis, plan of therapeutic intervention and to assess the
6 ongoing effects of physical therapy intervention. The "practice of physical
7 therapy" also means **may include** alleviating impairments, functional
8 limitations and disabilities by designing, implementing and modifying
9 therapeutic interventions that may include, but are not limited to, ther-
10 apeutic exercise; functional training in self-care and in home, community
11 or work integration or reintegration; manual therapy; therapeutic mas-
12 sage; prescription, application and, as appropriate, fabrication of assis-
13 tive, adaptive, orthotic, prosthetic, protective and supportive devices and
14 equipment; airway clearance techniques; integumentary protection and
15 repair techniques; debridement and wound care; physical agents or mo-
16 dalities; mechanical and electrotherapeutic modalities; and patient-related
17 instruction. ~~The "practice of physical therapy" also means,~~ reducing the
18 risk of injury, impairments, functional limitations and disability, including
19 the promotion and maintenance of fitness, health and quality of life in all
20 age populations and engaging in administration, consultation, education
21 and research. **Such practices shall not be construed to be exclusive**
22 **to physical therapists.**

23 (d) ~~The use of roentgen rays and radium for diagnostic and thera-~~
24 ~~peutic purposes, the use of electricity for surgical purposes, including~~
25 ~~cauterization, and the practice of medicine and surgery~~ **the healing arts**
26 **as defined by K.S.A. 65-2802, and amendments thereto,** are not au-
27 thorized or included under the term "physical therapy" as used in this
28 act.

29 (e) (e) "Physical therapist assistant" means a person who ~~works under~~
30 ~~the direction of a physical therapist, and who assists in the application of~~
31 ~~physical therapy, and whose activities require an understanding of phys-~~
32 ~~ical therapy, but do not require professional or advanced training in the~~
33 ~~anatomical, biological and physical sciences involved in the practice of~~
34 ~~physical therapy is certified pursuant to this act and who assists the phys-~~
35 ~~ical therapist in selected components of physical therapy intervention.~~ Any
36 person who successfully meets the requirements of K.S.A. 65-2906 and
37 amendments thereto shall be known and designated as a physical therapist
38 assistant, and may designate or describe oneself as a physical therapist
39 assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T.
40 Asst.

41 Sec. 2. K.S.A. 2001 Supp. 65-2913 is hereby amended to read as
42 follows: 65-2913. (a) ~~Any person who, in any manner, represents oneself~~
43 ~~as a physical therapist, or who uses in connection with such person's name~~

att 1

1 the words or letters physical therapist, physiotherapist, registered physical
2 therapist, P.T., Ph. T. or R.P.T., or any other letters, words, abbreviations
3 or insignia, indicating or implying that such person is a physical therapist,
4 without a valid existing certificate of registration as a physical therapist
5 issued to such person under the provisions of this act, shall be guilty of a
6 class B nonperson misdemeanor *A physical therapist shall use the letters*
7 *P.T. in connection with the physical therapist's name or place of business*
8 *to denote registration under this act.*

9 (b) Any person who, in any manner, represents oneself as a physical
10 therapist assistant, or who uses in connection with such person's name
11 the words or letters physical therapist assistant, certified physical therapist
12 assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words, ab-
13 breviations or insignia, indicating or implying that such person is a phys-
14 ical therapist assistant, without a valid existing certificate as a physical
15 therapist assistant issued to such person pursuant to the provisions of this
16 act, shall be guilty of a class B nonperson misdemeanor *A person or*
17 *business entity, its employees, agents or representatives shall not use in*
18 *connection with that person's name or the name or activity of the business,*
19 *the words physical therapy, physical therapist, physiotherapy, physioth-*
20 *erapist, the letters P.T., D.P.T., R.P.T., Ph.T. or any other words, abbre-*
21 *viations or insignia indicating or implying directly or indirectly that phys-*
22 *ical therapy is provided or supplied, unless such services are provided by*
23 *a physical therapist or a physical therapist assistant under the di-*
24 *rection of a physical therapist registered pursuant to this act. A person,*
25 *business or entity, its employees, agents or representatives shall not*
26 *use in connection with such person's name or the name or activity*
27 *of the business the words physiotherapy or physical therapy unless*
28 *such person is duly licensed to provide such treatment under the*
29 *laws of this state or is a registered physical therapist under this act.*
30 *A person or business entity shall not advertise or otherwise promote an-*
31 *other person as being a physical therapist or physiotherapist unless the*
32 *individual so advertised or promoted is registered as a physical therapist*
33 *under this act. A person or business entity who offers, provides or bills*
34 *any other person for services shall not characterize those services as phys-*
35 *ical therapy or physiotherapy unless the individual performing those serv-*
36 *ices is a person registered as a physical therapist under this act.*

37 (c) A physical therapist assistant shall use the letters P.T.A. in con-
38 nection with that person's name to denote certification hereunder.

39 (d) A person shall not use the title physical therapist assistant, the
40 letters P.T.A., C.P.T.A. or P.T. Asst. or any other words, abbreviations or
41 insignia in connection with that person's name to indicate or imply, di-
42 rectly or indirectly, that the person is a physical therapist assistant unless
43 that person is certified as a physical therapist assistant pursuant to this

Senate Public Health & Welfare Committee
Date: May 4, 2002
Attachment 4

As Amended by House Committee

Session of 2001

HOUSE BILL No. 2315

By Committee on Health and Human Services

2-5

AN ACT concerning occupational therapists; licensure thereof; amending K.S.A. 65-5402, 65-5405, 65-5406, 65-5407, 65-5410, 65-5412 and 65-5414 and K.S.A. 2000 2001 Supp. 65-1501, 65-2891, 65-4915, 65-4921, 65-5408 and 65-5409 and repealing the existing sections.

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

Section 1. K.S.A. 65-5402 is hereby amended to read as follows: 65-5402. As used in K.S.A. 65-5401 to 65-5417, inclusive, and sections 10 to 12, inclusive, and amendments thereto:

(a) "Board" means the state board of healing arts.

~~(b) "Occupational therapy" is a health care profession whose practitioners, other than occupational therapy practitioners working with the educationally handicapped in a school system, are employed under the supervision of a physician and whose practitioners provide therapy, rehabilitation, diagnostic evaluation, care and education of individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities or the aging process in order to maximize independence, prevent disability and maintain health. Specific occupational therapy services include:~~

~~—(1) Administering and interpreting tests necessary for effective treatment planning;~~

~~—(2) developing self-care and daily living skills such as feeding, dressing, hygiene and homemaking;~~

~~—(3) designing, fabricating, applying or training, or any combination thereof, in the use of selected orthotics, upper extremity prosthetics or adaptive equipment;~~

~~—(4) developing sensory integrative skills and functioning;~~

~~—(5) using therapeutic activity and exercise to enhance functional or motor performance, or both;~~

~~—(6) developing prevocational/vocational work capacities and play/leisure skills; and~~

~~—(7) adapting environment for the disabled.~~

(b) "Practice of occupational therapy" means the therapeutic use of purposeful and meaningful occupations (goal-directed activities) to eval-

Senate Public Health + Welfare Committee
Note: May 4, 2002
Attachment #5

1 tions or insignia indicating or implying that such person is an occupational
2 therapist or an occupational therapy assistant or who in any way, orally,
3 in writing, in print or by sign, directly or by implication, represents oneself
4 as an occupational therapist or an occupational therapy assistant.

5 (b) Any violation of this section shall constitute a class C misde-
6 meanor.

7 New Sec. 10. (a) Nothing in the occupational therapy practice act is
8 intended to limit, preclude or otherwise interfere with the practices of
9 other health care providers formally trained and licensed, registered, cre-
10 dentialled or certified by appropriate agencies of the state of Kansas.

11 (b) The practice of occupational therapy shall not be construed to
12 include the following individuals:

13 (1) Persons rendering assistance in the case of an emergency;

14 (2) members of any church practicing their religious tenets;

15 (3) persons whose services are performed pursuant to the delegation
16 of and under the supervision of an occupational therapist who is licensed
17 under this act;

18 (4) any person employed as an occupational therapist or occupational
19 therapy assistant by the government of the United States or any agency
20 thereof, if such person practices occupational therapy solely under the
21 direction or control of the organization by which such person is employed;

22 (5) licensees under the healing arts act when licensed and practicing
23 in accordance with the provisions of law or persons performing services
24 pursuant to a delegation authorized under subsection (g) of K.S.A. 65-
25 2872 and amendments thereto;

26 (6) dentists practicing their professions, when licensed and practicing
27 in accordance with the provisions of law;

28 (7) nurses practicing their professions, when licensed and practicing
29 in accordance with the provisions of law or persons performing services
30 pursuant to the delegation of a licensed nurse under subsection (m) of
31 K.S.A. 65-1124 and amendments thereto;

32 (8) health care providers who have been formally trained and are
33 practicing in accordance with the training or have received specific train-
34 ing in one or more functions included in the occupational therapy practice
35 act pursuant to established educational protocols, or both;

36 (9) any person pursuing a supervised course of study leading to a
37 degree or certificate in occupational therapy at an accredited or approved
38 educational program, if the person is designated by the title which clearly
39 indicates such person's status as a student or trainee;

40 (10) any person fulfilling the supervised fieldwork experience
41 requirements as part of the experience necessary to meet the requirement
42 of the occupational therapy practice act;

43 (11) self-care by a patient or gratuitous care by a friend or family

1 member who does not represent or hold oneself out to the public to be
2 an occupational therapist or an occupational therapy assistant;

3 (12) optometrists practicing their profession when licensed and prac-
4 ticing in accordance with the provisions of article 15 of chapter 65 of the
5 Kansas Statutes Annotated and amendments thereto;

6 (13) podiatrists practicing their profession when licensed and prac-
7 ticing in accordance with the provisions of article 15 of chapter 65 of the
8 Kansas Statutes Annotated and amendments thereto;

9 (14) physical therapists practicing their profession when registered
10 and practicing in accordance with K.S.A. 65-2901 *et seq.* and amendments
11 thereto;

12 (15) ~~physicians~~ **physician** assistants practicing their profession when
13 ~~registered~~ **licensed** and practicing in accordance with the physician as-
14 sistant licensure act;

15 (16) athletic trainers practicing their profession when registered and
16 practicing in accordance with the athletic trainers registration act;

17 (17) **manufacturers of prosthetic devices;**

18 (18) any person performing occupational therapy services, if these serv-
19 ices are performed for no more than 45 days in a calendar year in asso-
20 ciation with an occupational therapist licensed under the occupational
21 therapy practice act so long as (A) the person is registered or licensed
22 under the laws of another state which has licensure requirements at least
23 as stringent as the licensure requirements of this act, or (B) the person
24 meets the requirements for certification as an occupational therapist reg-
25 istered (OTR) or a certified occupational therapy assistant (COTA) es-
26 tablished by the national board for certification in occupational therapy
27 (NBCOT).

28 **(b)** Any patient monitoring, assessment or other procedures designed
29 to evaluate the effectiveness of prescribed occupational therapy must be
30 performed by or pursuant to the delegation of a licensed occupational
31 therapist or other health care provider.

32 **(c)** Education related therapy services provided by an occupa-
33 tional therapist to school systems or consultation regarding preven-
34 tion, ergonomics and wellness within the occupational therapy
35 scope of practice shall not require a referral, supervision, order or
36 direction of a physician, a licensed podiatrist, a licensed dentist or
37 a licensed optometrist. However, when in the course of providing
38 such services an occupational therapist reasonably believes that
39 **the client** may have an underlying injury, illness, disease, disorder
40 or impairment, the occupational therapist shall refer the **client** to
41 a physician, a licensed podiatrist, a licensed dentist or a licensed
42 optometrist, as appropriate.

43 ~~(e)~~**(d)** Nothing in the occupational therapy practice act shall be con-

(c)

(d)

an individual

individual

(e)

1 strued to permit the practice of medicine and surgery. No statute granting
2 authority to licensees of the state board of healing arts shall be construed
3 to confer authority upon occupational therapists to engage in any activity
4 not conferred by the occupational therapy practice act.

5 ~~(d)~~ **(e)** This section shall be part of and supplemental to the occu-
6 pational therapy practice act.

7 New Sec. 11. (a) An occupational therapy aide, occupational therapy
8 tech or occupational therapy paraprofessional shall function under the
9 guidance and responsibility of the licensed occupational therapist and may
10 be supervised by the occupational therapist or an occupational therapy
11 assistant for specifically selected routine tasks for which the occupational
12 therapy aide, occupational therapy tech or occupational therapy parapro-
13 fessional has been trained and has demonstrated competence. The oc-
14 cupational therapy aide, occupational therapy tech or occupational ther-
15 apy paraprofessional shall comply with supervision requirements
16 developed by the board by rules and regulations which are consistent
17 with prevailing professional standards.

(f)

18 (b) This section shall be part of and supplemental to the occupational
19 therapy practice act.

therapy assistant

20 New Sec. 12. (a) Any person holding a valid registration as an oc-
21 cupational therapist immediately prior to the effective date of this act
22 which has been issued by the state board of healing arts shall be deemed
23 to be a licensed occupational therapist and shall be subject to the provi-
24 sions of article 54 of chapter 65 of the Kansas Statutes Annotated.

25 (b) Any person holding a valid registration as an occupational therapy
26 assistant immediately prior to the effective date of this act which has been
27 issued by the state board of healing arts shall be deemed to be a licensed
28 occupational therapist and shall be subject to the provisions of article 54
29 of chapter 65 of the Kansas Statutes Annotated.

30 (c) This section shall be part of and supplemental to the occupational
31 therapy practice act.

32 Sec. 13. K.S.A. ~~2000~~ **2001** Supp. 65-1501 is hereby amended to read
33 as follows: 65-1501. (a) The practice of optometry means:

34 (1) The examination of the human eye and its adnexae and the em-
35 ployment of objective or subjective means or methods (including the ad-
36 ministering, prescribing or dispensing, of topical pharmaceutical drugs)
37 for the purpose of diagnosing the refractive, muscular, or pathological
38 condition thereof;

39 (2) the prescribing or adapting of lenses (including any ophthalmic
40 lenses which are classified as drugs by any law of the United States or of
41 this state), prisms, low vision rehabilitation services, orthoptic exercises
42 and visual training therapy for the relief of any insufficiencies or abnormal
43 conditions of the human eye and its adnexae; and