Approved: 3-24-03
Date

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE.

The meeting was called to order by Chairperson Jim Morrison at 1:35 p.m. on March 18, 2003, in Room 243-N of the Capitol.

All members were present except Representatives Landwehr and Flaharty, both of whom were excused.

Committee staff present:
Bill Wolff, Kansas Legislative Research Department
Renae Jefferies, Kansas Revisor of Statutes' Office
Gary Deeter, Committee Secretary

Conferees appearing before the committee:
Senator Jim Barnett
Jim Murphy, Assistant to the Secretary, Kansas Department of Health and Environment
Sally Finney, Executive Director, Kansas Public Health Association
Christina Collins, Director of Government Affairs, Kansas Medical Society

Others attending: See Attached Guest List

Representative Bethell chaired the hearing on **SB 106**, welcoming Senator Jim Barnett, who spoke in support of the bill. (Attachment 1) He provided examples of the value of science-based data collection regarding health issues. Answering a question, he said Healthy People 2010 is a national initiative to improve the health of American citizens.

Jim Murphy, Assistant to the Secretary, Kansas Department of Health and Environment (KDHE), testified in support of the bill, saying the bill will encourage a collaborative response to serious health issues. (Attachment 2) He said Healthy People 2010, which Healthy Kansans 2010 will reflect, will enable the major health gains of the past decade to continue. Answering questions, Mr. Murphy said the $165,000 cost would be absorbed within the KDHE budget and would likely open federal funding sources. He said Healthy Kansans 2000 identified trends ten years ago which, through the Bureau of Health Promotion, enabled the agency to tap federal funds to assist in meeting health needs. He said the initiative of the past decade caused KDHE to reorganize; the agency is now taking the lead in working with communities to deal with health issues. He noted that although Healthy Kansans 2010 can be accomplished by executive order, the program will have more significance if the legislature is also a stake-holder.

Paula Marmet, KDHE staff, gave specific results of Healthy Kansans 2000, through which KDHE coordinated strategies to assist health groups to work together .

Sally Finney, Executive Director, Kansas Public Health Association, spoke in support of the legislation, emphasizing the importance of science-based data for establishing priorities, developing strategies, and writing federal grants. (Attachment 3)

Chris Collins, Director of Government Affairs, Kansas Medical Society, related how helpful Healthy

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

Kansans 2000 has been in providing accurate data in order to develop wise health-care policies; she commended KDHE for providing leadership for and coordination of health-care efforts. (Attachment 4)

The Chair asked Gina Poertner, Assistant to Senator Barnett, to share her experience with the Healthy People project; she stated that the data produced by KDHE through this project enable communities to identify and address local health issues and provide a definitive foundation for reports and grants.

The Chair closed the hearing on **SB 106**.

Staff Bill Wolff briefed members on three bills:

He said **Sub for SB 204**, an act preventing lead poisoning in children, extends the sunset provision of the bill from July 1, 2004, to July 1, 2010. Answering a question, he said that if the act is not extended, KDHE will lose federal funds.

Regarding **SB 151**, Dr. Wolff said the bill addresses two sections of statutes, one relating to county hospitals, the other to district hospitals, changing both areas of the statutes to allow joint enterprises for county and district hospitals, further allowing them to expend hospital funds toward these joint ventures. He noted that the term "majority control" by a hospital might be a sticking point.

Dr. Wolff explained **SB 225**, an act which moves physical therapists from registration to licensure. He identified key points of the bill:

- Section 1 defines and protects not only the title of physical therapist, but the practice that a physical therapist performs. He noted the examples of words that have application to other practices—*physiological* (occupation therapists, chiropractors), *manual therapy* (chiropractors), *massage* (cosmetologists, barbers), *fabrication* (dentists, optometrists), *orthotics* (dentists, occupational therapists), *airway* (emergency medical technicians), saying that these overlapping words open the door for conflict with other practices.
- Advisory groups are changed to advisory councils, which assist physical therapists in carrying out the intent of the law.
- Sections of the bill clean up language, such as authorizing temporary permits, listing fees, and meeting national examination standards.
- The section dealing with exemptions allows all other persons whose licensed, registered or certified practice overlaps that of physical therapists to continue in their practice even though they may be doing the same things that physical therapists do.

Dr. Wolff referred to a letter from the Kansas Attorney General's office regarding **SB 225**. (Attachment 5) He also suggested some language to allay concern about the scope of practice granted by the bill. (Attachment 6) He commented that the 22 exemptions listed in the bill exceed those of any other health-care list.

Completing his comments on the bill, Dr. Wolff said the Senate added a requirement for physical therapists to carry liability insurance. Answering questions, he said nearly always (except for last year's licensure of occupational therapists) the elevating of a health-care practice to licensure creates turf battles. He noted that the bill does not give physical therapists independent practice.

The Chairman announced that the hearing for **SB 225** had been set for Thursday, March 20. The meeting was adjourned at 2:59 p.m. The next meeting is scheduled for Wednesday, March 19.

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST

DATE: March 18 2003

NAME	REPRESENTING
Melissa Ruggero	Federico Consulting
Julie Hein	Hein Law Firm
Bud Burke	Ks Physical Therapy Assn
Carol Sirlowsky	KPTA
Sally Finney	Ks. Public Health Assn.
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Gina Poertner	Sen. Barnett
Barry Brooks	KDHE
Tom Bruno	Ks. Athletic Trainers Society
Connie Burns	Whitney B. Damron
Christina Collins	KMS
Susan Wood	SRS
Candy Bahner PT, MS	KPTA
Jim Murphy	KDHE
TUCK DUNCAN	KS occupational therapy ASSN.
Chip Wheelen	Ass'n of Osteopathic Med
Tom Bell	KHA
Rebecca R[illegible]	Ks Chiropractic Assn
Paula Marmet	KDHE
Larrie Ann Lower	KAHP

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST

DATE: March 18 2003

NAME	REPRESENTING
Mary Ellen Conlee	Via Christi Health System

Testimony for Senate Bill 106

Mr. Chairman, Representative Bethel, and members of the House Health and Human Services Committee, thank you for the opportunity to speak in support of Senate Bill 106.

As you are well aware, Kansas is faced with growing health care costs in the face of limited resources. We are blessed with many advances in health care delivery, however, are faced with the growing sense that we cannot sustain the current rate of growth of health care costs in America.

Senate Bill 106 emphasizes the importance of addressing prevention and health promotion for our state. Healthy Kansas 2010 joins a national effort, Healthy People 2010. We would like our state to join many others across the United States in focusing on prevention efforts.

A great deal of data has already been compiled through the previous initiative, Healthy Kansans 2000. Healthy Kansans 2010 allows our state to further advance our efforts with the support and direction of the Secretary of Health and Environment.

The Kansas Department of Health and Environment has a long history of concern and proactive work with health promotion and prevention efforts. Under the current direction of Secretary Bremby, they are poised to further advance those efforts in a meaningful way to integrate with local communities and develop action plans to positively impact the future health of all Kansans. I appreciate your consideration of this legislation and for your service to our state on the House Health and Human Services Committee.

Signed:

Senator Jim Barnett

JAB/gkp

Attachment 1
HHS 3-18-03

KANSAS

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

Testimony on Senate Bill 106
presented to
House Health and Human Services Committee

by

Jim Murphy, Office of the Secretary
Kansas Department of Health and Environment
March 18, 2003

Chairman Morrison and members of the House Health and Human Services Committee, I am pleased to appear before you today to discuss SB106. The department commends the Legislature for recognizing the importance of initiating a collaborative health planning process that embraces the Healthy People 2010 Objectives, as this will undoubtedly result in identification of health issues of common interest to participants and subsequently lead to opportunities for collective response to the greatest health threats we currently face.

The Kansas Department of Health and Environment enthusiastically supports the intent of SB106 to identify major health care issues in Kansas and to establish objectives and priorities. Responsibility for a statewide health planning process is appropriate for and well within the mission and goals of the state health agency. Successful implementation of the project will be contingent, however, upon the agency's success in identifying new resources necessary to complement existing resources to carry it out effectively.

Healthy People 2010 outlines a comprehensive, nationwide health promotion and disease prevention agenda. It is designed to serve as a roadmap for improving the health of all people in the US during the first decade of the 21st century. Like the preceding Healthy People 2000 initiative which was driven by an ambitious, yet achievable, 10 year strategy for improving the Nation's health by the end of the 20th Century,

DIVISION OF HEALTH
Bureau of Consumer Health
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE. 200, TOPEKA, KS 66612-1274
Voice 785-296-0189 Fax 785-296-6522 http://www.kdhe.state.ks.us/bch

Attachment 2
HHS 3-18-03

Healthy People 2010 is committed to a single, overarching purpose: promoting health and preventing illness, disability and premature death.

The Healthy Kansans 2000 process involved more than 200 people from across the state; approximately 15 requested assistance for travel and per diem in order to participate in meetings. Because such a process is dependent upon active involvement of a broad base of people representing a wide spectrum of interests, it is essential to be inclusive in the planning process.

Previous experience in facilitating a number of other statewide planning processes, such as Healthy Kansans 2000 and the RWJ Turning points initiative, indicates that a planning project of this magnitude will require significant dedicated staff time. Existing staff in the Division of Health have first hand experience in designing and implementing statewide health planning processes and would be well positioned to oversee such a project.

However, the extensive involvement of external partners, while crucial to the success of a statewide health planning initiative, is a labor intensive project which needs the full time attention of specified staff in order to be effective and timely. Other cost considerations include travel costs or per diem reimbursement for participants of the process. While experience has shown that most organizations will contribute this type of support, it is expected that some participants representing disparate groups would need reimbursement assistance in order to participate.

Major gains have been made in public health during the past 40 years, to the point where acute and infectious diseases have been replaced as the leading causes of death. Kansas must remain diligent in addressing acute and infectious diseases, so as not to lose ground on the progress made. Additionally, the progress made in infectious disease, combined with changes in lifestyle have given way to a new era in which chronic diseases, such as coronary heart disease, hypertension, asthma and diabetes have replaced infectious disease as leading causes of death, affect more than 100 million Americans and account for three-quarters of the nation's annual health care costs. (Institute for Health and Aging 1996)

With the continued aging of the American population, both the prevalence and costs of chronic illness care are expected to rise by at least 15% by the year 2010 and by 60% by 2050. Yet, much of this growing chronic disease burden is preventable through more effective prevention and management. McGinnis and Forge (1993) estimate that 50% of mortality form the ten leading causes of death is attributable to lifestyle behaviors that cause or complicate chronic illness. Finding effective strategies for prevention and managing chronic disease will be a major challenge for health care in the 21ST Century.

I thank you for the opportunity to appear before the House Health and Human Services committee and will gladly stand for questions the committee may have on the topic.

HEALTHY KANSANS 2000

Introduction

Background

In 1992 the Secretary of the Kansas Department of Health and Environment was commissioned by the Governor to appoint a steering committee for Healthy Kansans 2000 which included representatives of business, academia, non-profit organizations, the medical care community, local public health and government agencies for the purpose of identifying priority health problems in Kansas, defining the impact of each health problem among the Kansas population, establishing targets for disease and risk reduction, identifying data sources needed to monitor the progress of the goals, and developing recommendations for achieving these goals.

As a result of this initiative the steering committee selected seven priority health conditions and four risk factors. The health conditions selected were: 1) Cancer, 2) Heart Disease, 3) Injuries and Violence, 4) Alcohol and Drug Abuse, 5) Infectious Diseases and Immunizations, 6) Human Immunodeficiency Virus (HIV) and Other Sexually Transmitted Diseases, and 7) Maternal and Infant Health. The risk factors selected were: 1) Access To Preventive Care, 2) Tobacco, 3) Nutrition, and 4) Physical Activity.

The Healthy Kansans 2000 document was released in 1996 and has been widely used since its publication to 1) determine program eligibility for certain federal funds, 2) guide coalition development and action on key public health issues, 3) make recommendations to policymakers, 4) identify gaps in data needed to measure the health of Kansans, 5) model for communities the assessment of local health problems and the setting of priorities for interventions, 6) establish baselines against which changes in health status could be compared, 7) identify efforts, as well as deficiencies in efforts, at both the state and local levels, to remedy public health problems, 8) place certain diseases and health conditions at a level of greater priority based on frequency of occurrence in the population, severity of consequences, cost, and preventability, 9) focus attention on disease risk factors, especially personal health behaviors and living conditions, as the important underlying targets of public health action, 10) advance prevention as the preferred mechanism of action for public health problems, 11) define the role of public health in remediating societal problems such as violence and substance abuse 12) promote changes in the training of health care professionals, and 13) promote the community as a locus of health change required to meet objectives for improving health status.

This update, the Healthy Kansans 2000 Mid-course review, documents the status and progress in achieving the HK2000 objectives. In so doing, it attempts to clarify the problems and limitations of data used to measure progress in health in preparation for Healthy Kansans 2010.

O. _ .nization, scope and limitations of the Healthy Kansans Mid-Course Review

The Healthy Kansans Mid-Course Review contains seven chapters which represent the seven priority health areas identified by the steering committee. Each chapter identifies the current status of the health problem. Graphs or charts have been included to clarify major trends over time. The most current available databases were used to calculate US and Kansas rates. Death rates appear in three forms: age-adjusted, age-specific, and crude (unadjusted). When an age sub-group is being evaluated, rates are age-specific. Otherwise, age-adjusted rates were used whenever possible (adjusted to the 1940 US population unless otherwise specified). Rates are per 100,000 population (unless otherwise specified). Statistical analysis was performed where there seemed to be a substantial increase or decrease of a particular rate over time. A table that summarizes each 1) indicator, 2) US baseline, 3) US actual rate, 4) Kansas baseline, 5) Kansas actual rate and, 6) Healthy Kansans objective is included at the end of the review.

Whenever possible, the original US and Kansas baseline rates were used. However, since the intent of this document is primarily to demonstrate trends in the health of Kansans, baseline values and even entire objectives were revised, when necessary. In some cases baselines had to be changed to reflect changes in databases. For example, the Kansas Department of Transportation (KDOT) recommended that the KDOT database be used instead of the Fatality Analysis Reporting System (FARS) to calculate motor vehicle crashes with alcohol involvement rates. Since there is a significant difference in the definition of alcohol-related motor vehicle accidents between the two databases, there was a substantial change in the Kansas baseline rate from 6.6 cases to 3.5 per 100,000 population. Another important change in baseline rates occurred in the incidence of congenital syphilis. A change in the case definition of congenital syphilis made the original baseline rate for the US increase considerably from 1.2 to 91 cases per 100,000 population. The rate for Kansas did not change since Kansas had 2 cases of congenital syphilis in 1994 and has had 0 cases since 1996.

In other cases, the Healthy Kansans 2000 objectives had to be restated in order to reflect changes in survey questions that were used as sources for baselines. For example, the Kansas Communities That Care survey uses school grade breakdown instead of age breakdown to identify the proportion of students who smoked during the past month. In one particular case, drug and alcohol related deaths, the objective was divided into two objectives to demonstrate the magnitude of each problem among the Kansas population. Two objectives regarding the approval of use of alcohol and marijuana by peers were subdivided to represent the breakdown by school grade, since it is important to show the increase in acceptance by peers of the use of alcohol and marijuana with increasing school grade. Where new objectives were created, no new target values were provided.

Some of the target values established by the steering committee and workgroups were intended to represent changes that would have occurred had the rate of increase been the same observed in previous years. For instance, the target for the incidence of AIDS reflected the progressively rising disease incidence of the early 1990's. However, AIDS incidence declined beginning in the mid 1990's, likely as a consequence of new

treatment for HIV infection. Another example is heart disease. Targets for heart disease were established based on the premise that preexisting rates of decline would continue. However, since progress was made possible by substantial advances in prevention and treatment, continued decline at that rate was unlikely in the absence of continued advances. Nationally, the rates of decline in heart disease mortality have slowed considerably during recent years.

Limitations on available data made certain objectives difficult to measure. For example, the Kansas Nutrition Survey which was used as a baseline for most of the nutrition objectives has not been repeated to date. Another example is the Youth Risk Behavior Survey (YRBS) for which the number of participating schools has eroded to the point that data cannot be used to represent state wide values. An objective which used the "HIV Seroprevalence Among Childbearing Women" study to measure penetration of HIV among women cannot be measured since this study has been terminated. Finally, for some health objectives, no baseline could be identified making it very difficult to monitor the progress in this health area.

In some cases trends demonstrate substantial improvement in health status; in other cases the health indicator has worsened. However, in no case is this review intended as an indictment of the efforts made to improve the health of Kansans, but rather as an honest new look at where we have come from and where we need to go.

To: House Committee on Health and Human Services
From: Sally Finney, CAE, Executive Director
Re: Senate Bill 106
Date: March 18, 2003

The Kansas Public Health Association supports Senate Bill 106.

Our members recognize that using a science-based approach to planning is an integral part of public health. While the national initiative Healthy People does provide some useful guidance for Kansas-based programs, it has limitations because it relies on national health data rather than state-specific information. Using Kansas-specific health data, as is the case with the Healthy Kansans initiative, helps to assure that the priorities identified through the process are appropriate for this state.

The Kansas public health community has participated in many planning efforts over the decades, and the Healthy Kansans effort has shown itself to be among the more useful of these. It is important that this process be ongoing to assure that program administrators and decision-makers have current information.

The Kansas Public Health Association appreciates the work of the Kansas Department of Health and Environment in the area of health planning and urges the agency to continue with a Healthy Kansans 2010 initiative.

Our members also appreciate your interest in this effort and ask you to support SB 106.

Attachment 3
HHS 3-18-03

To:	House Health and Human Services Committee
From:	Christina Collins Director of Government Affairs
Date:	March 17, 2003
Subject:	**SB** 106

The Kansas Medical Society appreciates the opportunity to appear today on SB 106, which charges the Kansas Department of Health and Environment with continuing the work of the Healthy Kansans 2000 project.

The Healthy Kansans program utilized a statewide opinion survey and a coalition of key decision makers representing business and industry, health related organizations, education, and community groups to define health objectives related to seven priority health areas (heart disease, cancer, intentional and unintentional injury, maternal and child health, drug and alcohol abuse, AIDS and STDs, and immunization and infectious disease) plus four cross-cutting risk factors (tobacco, physical activity, nutrition, and access to preventive health care). Healthy Kansans has been used extensively across the state since its publication. Some of the uses include: 1) coalitions designing action plans to achieve HK2000 objectives, 2) development of community specific health objectives by communities, 3) standardization of measurement for health indicators, 4) identification of data collection and data access deficiencies and determining policies for correcting these deficits, 5) design of data collection instruments and special surveys needed to measure health status, 6) justification for financial policies supporting HK2000 priority areas, 7) teaching of health policy and surveillance, 8) demonstration of need to increase preventive medicine focus in medical school curricula, and 9) identifying health disparities for minority populations and the need for minority-specific health risk data. In short, the Health Kansans 2000 project has been a rich source for data that is invaluable when forming wise health policy.

SB 106 charges the Department of Health and Environment to continue its lead agency status in continuing this important project. It provides an opportunity for dialogue and collaboration by government agencies and health organizations on important health initiatives for Kansans. The project is subject to available appropriations and also charges the Secretary of KDHE with finding alternate funding sources. This program's value stems from its reliance on local

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community resources to evaluate their own needs, set goals and promote only the programs they need while looking to their colleagues in other communities and to the state for guidance.

The Kansas Medical Society applauds the work done by the Healthy Kansans 2000 project and encourages the House Health and Human Services Committee to recommend this bill favorably for passage and allow this important project to continue.

State of Kansas
Office of the Attorney General
120 S.W. 10th Avenue, 2nd Floor, Topeka, Kansas 66612-1597

Phill Kline
Attorney General

Main Phone: (785) 296-2215
Fax: 296-6296

March 13, 2003

The Honorable Jim Morrison
State Representative, 121st District
State Capitol Bldg, Room 171-West
Topeka, Kansas 66612-1504

Re: Public Health--Physical Therapy--Licensing the Practice

Dear Representative Morrison:

As Chair of the House Health and Human Services Committee, you ask several questions about proposed 2003 Senate Bill No. 225 (hereinafter the Bill) dealing with the practice of physical therapy.

You inquire whether the Bill establishes a scope of practice or whether it simply protects the title of physical therapist. Physical therapists are registered and physical therapist assistants are certified by the Kansas Board of Healing Arts.[1] The amendments in the Bill generally change the level of credentialing of physical therapists from registration to licensure.[2] Additionally, the Bill changes the current status of protecting the use of the title 'physical therapist' to that of establishing and protecting the scope of practice.[3]

The scope of practice is found in the definition of the "practice of physical therapy" in Section 1(c) which states:

> "'Practice of physical therapy' means examining, evaluating and testing individuals with mechanical, **anatomical** physiological and developmental impairments, functional limitations and disabilities or other health and movement-related conditions in order to determine a diagnosis **solely** for physical therapy, prognosis, plan of therapeutic intervention and to assess the ongoing effects of physical therapy

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[1] K.S.A. 65-2901 *et seq.*

[2] 2003 S.B. 225, §1(b).

[3] K.S.A. 65-2901(b) and 2003 S.B. No. 225, §10(a).

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> intervention. The 'practice of physical therapy' also includes alleviating impairments, functional limitations and disabilities by designing, implementing and modifying therapeutic interventions that may include, but are not limited to, therapeutic exercise; functional training in self-care and in home, community or work integration or reintegration; manual therapy; therapeutic massage; prescription, application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective and supportive devices and equipment; airway clearance techniques; integumentary protection and repair techniques; debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; patient related instruction; reducing the risk of injury, impairments, functional limitations and disability, including the promotion and maintenance of fitness, health and quality of life in all age populations and engaging in administration, consultation, education and research. The 'practice of physical therapy' does not include the use of roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, the practice of medicine and surgery **and the making of a medical diagnosis.**"[4]

The definition of the practice of physical therapy is very detailed and specifically mentions what the practice does not include. In our opinion, the Bill establishes a scope of practice by defining the practice of physical therapy.

Your second question is whether the 22 health care providers listed in Section 10 are allowed to perform the activities that constitute practice of physical therapy without a license to practice physical therapy.[5] The Bill lists the health care providers whose practices are exempted from the act's application. Those exempted from the act's application are not authorized to perform the duties of a physical therapist, rather, should the professions of those exempted overlap, those exempted are provided protection from prosecution for the unlicensed practice of physical therapy. In other words, the exemption from the act does not authorize a larger scope of practice to those who are exempted; the exemptions provide protection from prosecution when the professions or occupations overlap or contain the same duties.

The scope of practice of those listed in the exemptions is determined by the statutes that authorize each specific practice. So, in order to determine whether an occupation or profession has duties that are similar to the practice of physical therapy, one must go to the statutes that govern the other occupation or profession. If an overlap is found, the exempted profession or occupation is protected from prosecution for the unlawful practice of physical therapy when acting within the person's own

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[4] Emphasis in original.

[5] Section 10 states: "Nothing in this act is intended to limit, preclude or otherwise interfere with the practices of other health care providers formally trained and licensed, registered, credentialed or certified by appropriate agencies of the state of Kansas. The practice of physical therapy shall not be construed to include the following individuals so long as they do not hold themselves out in a manner prohibited under subsection (a) or (b) of this section:..."

authorized scope of practice.

There are however several occupations listed in the exemptions that are registered or certified but not licensed, and thus do not have a defined scope of practice established by statute, such as occupational therapists and athletic trainers. Occupational therapists and athletic trainers may be subject to a determination about whether they have unlawfully invaded a field of practice for which they are not licensed should the occupations or professions be found not to overlap.

It is, however, legislation that determines the scope of practice of a profession or occupation, and where we must look in order to determine whether the occupation overlaps and is thus protected from prosecution by the exemption found in the Bill. In sum, it is our opinion that the Bill does not authorize occupations without a defined scope of practice to engage in the practice of physical therapy; the exemptions provide protection from prosecution should the occupations or professions overlap.

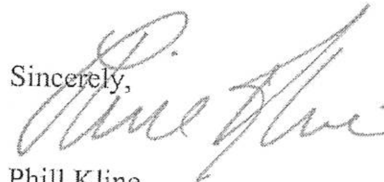
Your third question is whether the Bill provides physical therapists an independent scope of practice. Section (1)(b) defines physical therapist and provides title protection against the unauthorized use of the title or designation used by physical therapists. Additionally it limits the practice:

> "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."

The limitation authorizes a physical therapist to evaluate but not implement or initiate a treatment without the order of a licensed physician. Thus, in our opinion, the Bill does not provide an independent scope of practice.

In order to provide the expedited response you requested, we are responding by letter rather than formal opinion. This letter thus does not carry the same precedential value as would a formal opinion.

Sincerely,



Phill Kline
Kansas Attorney General

cc: Larry Buening

Attachment 6
HHS 3-18-03

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2003

SENATE BILL No. 225

By Committee on Public Health and Welfare

2-13

AN ACT relating to physical therapy; providing for licensure of physical therapists; amending K.S.A. 7-121b, 40-2,111, 60-513d, 60-2609, 65-1501, 65-1902, 65-2891, 65-2901, 65-2903, 65-2904, 65-2905, 65-2906, 65-2909, 65-2910, 65-2911, 65-2912, 65-2913, 65-2914, 65-2916, 65-2918, 65-2919, 65-4915, 65-4921, 65-5418 and 65-5912 and K.S.A. 2002 Supp. 17-2707, 21-3721 and 40-3401 and repealing the existing sections; also repealing K.S.A. 65-2902, 65-2907, 65-2908 and 65-2915.

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~~ *article 29 of chapter 65 of the Kansas statutes annotated and acts amendatory of the provisions thereof or supplemental thereto:*

(a) "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 licensed 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 licensed to*

1 *practice physical therapy pursuant to this act.* Any person who success-
2 fully meets the requirements of K.S.A. 65-2906 and amendments thereto
3 shall be known and designated as a physical therapist and may designate
4 or describe oneself as a physical therapist, physiotherapist, ~~registered~~ *li-*
5 *censed* physical therapist, P.T., Ph. T., *M.P.T., D.P.T.* or ~~R.P.T.~~ *L.P.T.*
6 Physical therapists may evaluate patients without physician referral but
7 may initiate treatment only after consultation with and approval by a phy-
8 sician licensed to practice medicine and surgery, a licensed podiatrist or
9 a licensed dentist in appropriately related cases.
10 *(c) "Practice of physical therapy" means examining, evaluating and*
11 *testing individuals with mechanical,* ***anatomical*** *physiological and de-*
12 *velopmental impairments, functional limitations and disabilities or other*
13 *health and movement-related conditions in order to determine a diagnosis*
14 ***solely*** *for physical therapy, prognosis, plan of therapeutic intervention*
15 *and to assess the ongoing effects of physical therapy intervention. The*
16 *"practice of physical therapy" also includes alleviating impairments, func-*
17 *tional limitations and disabilities by designing, implementing and modi-*
18 *fying therapeutic interventions that may include, but are not limited to,*
19 *therapeutic exercise; functional training in self-care and in home, com-*
20 *munity or work integration or reintegration; manual therapy; therapeutic*
21 *massage; prescription, application and, as appropriate, fabrication of as-*
22 *sistive, adaptive, orthotic, prosthetic, protective and supportive devices*
23 *and equipment; airway clearance techniques; integumentary protection*
24 *and repair techniques; debridement and wound care; physical agents or*
25 *modalities; mechanical and electrotherapeutic modalities; patient-related*
26 *instruction; reducing the risk of injury, impairments, functional limita-*
27 *tions and disability, including the promotion and maintenance of fitness,*
28 *health and quality of life in all age populations and engaging in admin-*
29 *istration, consultation, education and research. The "practice of physical*
30 *therapy" does not include the use of roentgen rays and radium for diag-*
31 *nostic and therapeutic purposes, the use of electricity for surgical pur-*
32 *poses, including cauterization,* ~~and~~ *the practice of medicine and surgery*
33 ***and the making of a medical diagnosis.***
34 ~~(c)~~ *(d)* "Physical therapist assistant" means a person who *is certified*
35 *pursuant to this act and who* works under the direction of a physical
36 therapist, and who assists ~~in the application of physical therapy, and whose~~
37 ~~activities require an understanding of physical therapy, but do not require~~
38 ~~professional or advanced training in the anatomical, biological and phys-~~
39 ~~ical sciences involved in the practice of physical therapy~~ *the physical ther-*
40 *apist in selected components of physical therapy intervention.* Any person
41 who successfully meets the requirements of K.S.A. 65-2906 and amend-
42 ments thereto shall be known and designated as a physical therapist as-
43 sistant, and may designate or describe oneself as a physical therapist as-

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1 *siotherapist or licensed physical therapist or use the abbreviations* P.T.,
2 Ph. T., *M.P.T., D.P.T.* or ~~R.P.T.~~ *L.P.T.*, or any other letters, words, ab-
3 breviations or insignia, indicating or implying that such person is a phys-
4 ical therapist~~, without a valid existing certificate of registration as a phys-~~
5 ~~ical therapist issued to such person under the provisions of this act, shall~~
6 ~~be guilty of a class B nonperson misdemeanor~~; *or (2)* [except for physical therapist assistants,] *to engage in the*
7 *practice of physical therapy. A violation of this subsection shall constitute*
8 *a class B nonperson misdemeanor.*
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.
17 (c) ~~Nothing in this act shall prohibit any person not holding oneself~~
18 ~~out as a physical therapist or physical therapist assistant from carrying out~~
19 ~~as an independent practitioner, without prescription or supervision, the~~
20 ~~therapy or practice for which the person is qualified, and shall not prohibit~~
21 ~~the person from using corrective therapy. Nothing in this act shall prohibit~~
22 ~~any person who assists the physical therapist or physical therapist assistant~~
23 ~~from being designated as a physical therapy aide.~~ *Nothing in this act is*
24 *intended to limit, preclude or otherwise interfere with the practices of*
25 *other health care providers formally trained and* [practicing their profession. The provisions of article 29 of chapter 65 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto shall not apply to] ~~*licensed, registered, cre-*~~
26 ~~*dentialed or certified by appropriate agencies of the state of Kansas. The*~~
27 ~~*practice of physical therapy shall not be construed to include*~~ *the following*
28 *individuals so long as they do not hold themselves out in a manner pro-*
29 *hibited under subsection (a) or (b) of this section:*
30 *(1) Persons rendering assistance in the case of an emergency;*
31 *(2) members of any church practicing their religious tenets;*
32 *(3) persons whose services are performed pursuant to the delegation*
33 *of and under the supervision of a physical therapist who is licensed under*
34 *this act;*
35 *(4) health care providers in the United States armed forces, public*
36 *health services, federal facilities and coast guard or other military service*
37 *when acting in the line of duty in this state;*
38 *(5) licensees under the healing arts act, and practicing their profes-*
39 *sions, when licensed and practicing in accordance with the provisions of*
40 *'aw or persons performing services pursuant to the delegation of a* ~~*licensed*~~
41 ~~*physician*~~ **licensee** *under subsection (g) of K.S.A. 65-2872 and amend-*
42 *ments thereto;*
43 *(6) dentists practicing their professions, when licensed and practicing*