

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE.

The meeting was called to order by Chairperson Jim Morrison at 1:34 p.m. on March 24, 2003, in Room 243-N of the Capitol.

All members were present except Representatives Holland and Patterson, both of whom were excused.

Committee staff present:

Bill Wolff, Kansas Legislative Research Department  
Renaë Jefferies, Kansas Revisor of Statutes' Office  
Gary Deeter, Committee Secretary

Conferees appearing before the committee:

Tuck Duncan, Legislative Liaison, Kansas Occupational Therapy Association  
Tom Bruno, Kansas Athletic Trainers Society  
Charles Mossman, Legislative Chair, Kansas Chiropractor Association  
Candy Bahner, President, Kansas Physical Therapists Association  
Maggie Kelley, Kansas Association of Therapeutic Massage and Bodywork  
Chris Collins, Director of Government Affairs, Kansas Medical Society  
Chip Wheelen, Executive Director, Kansas Association of Osteopathic Medicine

Others attending: See Attached Guest List

The minutes for March 18 and March 19 were unanimously approved

Chairman Morrison announced that collaboration with some of the principals supporting or opposing **SB 225** had resulted in an agreement.

Tuck Duncan, Legislative Liaison, Kansas Occupational Therapy Association, speaking to the collaborative efforts mentioned by the Chair, outlined the agreement. He said the issue was not licensure of physical therapists, but the manner in which physical therapists were allied with other health-care professions, especially with the occupational therapists, the athletic trainers, and the chiropractors; in light of that relationship, the protected scope of practice was moved to the definition section of the bill, and a few adjustments in the definition section were made. Additionally, chiropractors and optometrists were added to those who can approve and supervise physical therapy treatment plans. He said the language regarding penalties for any non-excluded person engaging in physical therapy was struck from the bill. Mr. Duncan applauded the Board of Healing Arts for their work in helping clarify issues in the bill.

Tom Bruno, Kansas Athletic Trainers Society, stated that, with the removal of the scope of practice, he supported the bill.

Charles Mossman, Legislative Chair, Kansas Chiropractor Association, said that, after initial reservations, he believed the various groups had reached an equitable compromise.

## CONTINUATION SHEET

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE at on March 24, 2003, in Room 243-N of the Capitol.

Candy Bahner, President, Kansas Physical Therapists Association, reviewed the agreement, confirming that the Association was giving up the protected scope of practice and moving the description of scope of practice into the definition section of the bill. She noted that, in deference to the occupational therapists, the physical therapists had agreed to drop terms of self-care and home-care from the definition (page 2, line 19 in the original bill).

Maggie Kelley, Kansas Association of Therapeutic Massage and Bodywork, recommended some changes in wording to address concerns of massage therapists. (Attachment 1)

Chris Collins, Director of Governmental Affairs, Kansas Medical Society, noting that the Society had not been centrally involved in discussions about the bill, stated that the Society supports licensure and that physical therapists are a valuable part of the medical team. (Attachment 2)

Chip Wheelen, Executive Director, Kansas Association of Osteopathic Medicine, said osteopaths are not opposed to the bill, but suggested some amendments to clear up some technical language and one amendment to limit the practice of physical therapists, eliminating the phrase “. . .to determine a diagnosis solely for physical therapy. . .,” (page 2, lines 13-14) which he said was in conflict with the statutes which require a referral from a physician. (Attachment 3)

Staff Bill Wolff further summarized the agreement, saying that a balloon amendment would be available for members before they worked the bill on Tuesday, March 25.

The chairman said he would take under advisement any further suggestions from Mr. Wheelen and the Board of Healing Arts.

The meeting was adjourned at 2:22 p.m. The next meeting is scheduled for Tuesday, March 25, 2003.

**HOUSE HEALTH AND HUMAN SERVICES COMMITTEE  
GUEST LIST**

DATE: March 24 2003

NAME	REPRESENTING
Judy Pace	KCA
Steve Muen	KDHE
Gary Couser	KCA
Chip Wheelen	Ass'n of Osteopathic Med.
Charles Mosman	KCA
Tam Litreey	Kansas OT Assn.
Robin Haag	Kansas Assoc. Therapeutic <sup>massage</sup> + <sup>bodywork</sup>
Denise Gurn	KATMB
Maggie Kelley	KATMB
Christina Collins	KMS
TUCK DUNCAN	Ks Occupational Therapy Assn.
Tom Litreey	President Kansas Occupational Therapy Assn.
Ken Seeber	AMTA
Paul Foley	AMTA
CADY Roberts	Ks Upt Assn
Tom Bell	Ks. Hosp. Assn.
Dale Wheeler	AMTA
Wendy Farnable	AMTA
Paula Daniels	AMTA

Diane Minear

Intern / Brenda Landwehr

Jane Kelly

KCA



From: Maggie Kelley [maggiekelley@cox.net]  
Sent: Tuesday, March 18, 2003 11:33 PM  
To: jmorriso@ink.org; garyd@house.state.ks.us  
Subject: SB 225

KANSAS ASSOCIATION OF THERAPEUTIC MASSAGE & BODYWORK, INC.

MISSION STATEMENT: we are a heart-centered community of Massage Therapists and Bodyworkers dedicated to promoting wellness.

March 20, 2003

To: The Honorable Jim Morrison, Chairman  
and Members of House Health & Human Services Committee

Re: SB 225

My name is Maggie Kelley. I represent the KATMB (Kansas Association of Therapeutic Massage & Bodywork). KATMB was founded in 1984 and is incorporated in the State of Kansas. I have been a Massage Professional fo 23 years in Topeka.

In reviewing the text of amended SB 225, we observed that the use of 'therapeutic massage' on page 2, lines 20-21 is included in the Physical Therapists exclusive scope of practice. For massage professionals, the words 'therapeutic massage' are used to represent over 200 modalities in the practice of massage. We are concerned that those words (therapeutic massage) are too broad a term as listed in this text.

If it could be amended to read: "Therapeutic massage as is solely required for physical therapy treatment", it would allow the exempted individuals on page 11, line 33 to continue doing therapeutic massage without violating subsection (a) page 10, line 6 #2 and line 7 which states "to engage in the practice of physical therapy", which would technically include all therapeutic massage.

If the scope of practice for the Physical Therapists cannot be made to include this amendment, we ask that the phrase on page 10, line 28-29 that reads "so long as they do not hold themselves out in a manner prohibited under subsection (a) or (b) of this section, be omitted. this gives the impression that massage professionals are only exempt as long as they don't engage in the practice of physical therapy.

This matter is very important to massage professionals in Kansas. We appreciate your consideration.

If you have any questions, I can be reached at 785-273-8253 or by email at maggiekelley@cox.net.

Maggie Kelley

Attachment 1  
HHS 3-24-03

**To:** House Health and Human Services Committee

**From:** Christina Collins  
Director of Government Affairs

**Date:** March 19, 2003

**Subject:** SB 225; concerning licensure of physical therapists

The Kansas Medical Society appreciates the opportunity to appear today on SB 225, which would license physical therapists. They are currently registered by the Kansas State Board of Healing Arts. The Kansas Medical Society does not oppose the concept of licensing physical therapists.

The physician members of the Kansas Medical Society have long supported and respected physical therapists. Physical therapy programs have stringent entrance requirements and acceptance into a program is a highly competitive process. Physical therapists undergo rigorous academic training in the medical model and they are valuable members of the health care team.

The Kansas Physical Therapy Association is to be commended for its diligent and thorough preparations in its submission to the KDHE Credentialing Committee this past summer. It made an impressive showing to the committee and made a strong case that this group of professionals should be licensed. It is important to note, however, that the KDHE Credentialing Committee ruled solely on the propriety of this group's elevation in status. It was not charged with reviewing the proposed change in the group's scope of practice. This licensure bill does more than simply substitute the term "licensure" for "registration" in the current physical therapy act. This bill eliminates the old practice act's "physical therapy" definition and replaces it with an entirely new one that is comprised mostly of model language from the American Physical Therapy Association.

The Kansas Medical Society has no objection to the elevation in status for this group from registration to licensure. I would be pleased to stand for questions.

Attachment 2  
HHS 3-24-03





Proposed Amendments to Senate Bill 225  
(As Amended by Senate Committee of the Whole)  
**For Consideration by the House Health and Human Services Committee**  
Submitted by Charles L. Wheelen  
March 21, 2003

The Kansas Association of Osteopathic Medicine does not support or oppose SB225. We are, however, concerned about language contained in the scope of practice definition and for that reason we have participated in discussions with various professional associations as well as members of the State Board of Healing Arts.

The following amendments were drafted in response to concerns expressed at the meeting of the Kansas Board of Healing Arts Legislation Committee on March 12, 2003. On March 20, 2003 that same Committee endorsed these amendments and also an amendment in section 10 of the bill (pages 9-10) and submitted those recommendations to Chairman Morrison.

On page two at line 6:

Delete all of lines 6-9 but restore identical language on page three after line 3 and identify as "Sec. 2," then renumber all ensuing sections. [This language, which is current law, is contained in the definitions section. It is not a definition, however; it is a general guiding principle and should be set out in a separate section of the act.]

On page two at line 13:

Delete all after "a" and

On page two at line 14:

Delete all before "plan." [The functions of diagnosis and prognosis should be reserved to the various scopes of practice for doctors (for example, doctors of osteopathy, doctors of medicine, doctors of optometry, doctors of chiropractic, doctors of podiatry, doctors of dental science, and doctors of veterinary medicine). Physical therapists are not required to have a doctorate degree in order to be registered under current law or to be licensed pursuant to SB225.]

On page two at line 32:

Delete all after "of" and insert in lieu thereof, "any branch of the healing arts or." [By substituting "healing arts" in lieu of "medicine and surgery" it makes it clear that the practice of physical therapy does not include the practice of osteopathy, chiropractic, or medicine and surgery.]

On page two at line 33:

Delete all before "the." [This is a continuation of the above amendment.]

Thank you for considering these amendments. We believe they would clarify legislative intent and thus improve the quality of the bill.

Attachment 3  
HHS 3-24-03

TO: House Health and Human Services Committee

RE: Sub-Committee Hearing on SB 225

Thank you for allowing us to present to your committee concerning SB225.

I'm Dr. Gary Counselman, a Doctor of Chiropractic and practice here in Topeka.

As a Chiropractor I practice under the Healing Arts Act, that is the Act that established and regulates the practice of MD's, DO's, DC's and DPM's (for the care of feet).

This group of practitioners have a defined scope of practice within that Act and are held to a standard of care that includes medical diagnosis of all body systems. There are others that are licensed, registered, certified or in some way recognized to provide care to the human body, but they are not part of the Healing Arts Act. Even though the Healing Arts Board oversees many of these groups, only the MD, DO and DC's are held accountable for the whole body diagnosis. Requirements for Practitioners of the Healing Arts Acts are the standards by which others should be compared.

Here in is part of our concern and should be part of yours too. There are groups coming to the legislature wanting to do what the practitioners of the Healing Arts Act do without the same qualifications and training.

SB225 is careful to exempt those that practice medicine and surgery, part of the Healing Arts Act but not chiropractic which is also a part of the Healing Arts Act.

PT's want to do manual therapy and their definition includes thrust manipulation, they say they do it already, we believe that is a violation of the Healing Arts Act. Manipulation is what chiropractors do, we also do physical therapy, its in our practice act.

We are taught PT and the use of modalities in our colleges and tested in those areas by National Board of Examiners, for licensure. PT's want an exclusive on their laundry list that is



in SB225. There are very few of the activities on their list that we do not do.

At the meeting on 3-12-03 of the Legislative Committee of Healing Arts Board, which I believe most of you attended and the Senate hearing on this bill, it became obvious that there is a lot of misinformation out there. Even KDHE, a State Agency, was involved with some misleading information. In their cover letter to the Senate Committee it was stated that all ten criteria were met and asked "the legislature to act favorably on this bill" that is misleading, all they should have said was they recommend licensing. We still have questions as to whether criteria VIII and possibly IX were met.

At the HAB meeting last week Rep. Morrison offered several comments and objective observations. I believe he has a better grasp and understanding of what is going on than anyone. He said you have to work together and compromise was a word he used several times. Then he offered an analogy of the optometrists and ophthalmologists negotiations and compromise that was constructed concerning glaucoma and that seems to be working. Then there was also mention of how the MDs and DOs worked out the problems they had for several years and are now working closely together.

So, we have gone back and looked at SB225 and all that it is trying to do, to see if we could figure out how we could work together and get a better understanding of each other and what we do. In Kansas, and in SB225 PTs cannot initiate treatment on the orders of a DC. I was informed that PT's and DC's work together in 37 states, but not in Kansas.

We would like to purpose some amendments that would allow us to work together, to get a better understanding of what each other does and allow everyone to get what they want. Most of this is based on the model that the Optometrist and Ophthalmologist settled on to solve their differences.

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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 (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-

Sec. 2 [relocate and renumber  
ensuing sections]

*delete*

any branch of the healing arts or

**Chapter 65.--PUBLIC HEALTH  
Article 28.--HEALING ARTS**

**65-2802. Definitions.** For the purpose of this act the following definitions shall apply:

(a) The healing arts include any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, or injury, and includes specifically but not by way of limitation the practice of medicine and surgery; the practice of osteopathic medicine and surgery; and the practice of chiropractic.

(b) "Board" shall mean the state board of healing arts.

(c) "License" shall mean a license to practice the healing arts granted under this act.

(d) "Licensed" or "licensee" shall mean a person licensed under this act to practice medicine and surgery, osteopathic medicine and surgery or chiropractic.

(e) Wherever the masculine gender is used it shall be construed to include the feminine, and the singular number shall include the plural when consistent with the intent of this act.

**History:** L. 1957, ch. 343, § 2; L. 1976, ch. 273, § 1; Feb. 13.

**65-2869. Persons deemed engaged in practice of medicine and surgery.** For the purpose of this act the following persons shall be deemed to be engaged in the practice of medicine and surgery:

(a) Persons who publicly profess to be physicians or surgeons, or publicly profess to assume the duties incident to the practice of medicine or surgery or any of their branches.

(b) Persons who prescribe, recommend or furnish medicine or drugs, or perform any surgical operation of whatever nature by the use of any surgical instrument, procedure, equipment or mechanical device for the diagnosis, cure or relief of any wounds, fractures, bodily injury, infirmity, disease, physical or mental illness or psychological disorder, of human beings.

(c) Persons who attach to their name the title M.D., surgeon, physician, physician and surgeon, or any other word or abbreviation indicating that they are engaged in the treatment or diagnosis of ailments, diseases or injuries of human beings.

**History:** L. 1957, ch. 343, § 69; L. 1969, ch. 299, § 14; L. 1976, ch. 273, § 30; L. 1988, ch. 251, § 5; July 1.

**Chapter 65.--PUBLIC HEALTH  
Article 28.--HEALING ARTS**

**65-2870. Persons deemed engaged in practice of osteopathy.** For the purpose of this act the following persons shall be deemed to be engaged in the practice of osteopathy or to be osteopathic physicians and surgeons:

(a) Persons who publicly profess to be osteopathic physicians, or publicly profess to assume the duties incident to the practice of osteopathy, as heretofore interpreted by the supreme court of this state, shall be deemed to be engaged in the practice of osteopathy.

(b) Osteopathic physicians and surgeons shall mean and include those persons who receive a license to practice medicine and surgery pursuant to the provisions of this act.

**History:** L. 1957, ch. 343, § 70; L. 1969, ch. 299, § 15; L. 1976, ch. 273, § 31; Feb. 13.

**65-2871. Persons deemed engaged in practice of chiropractic.** For the purpose of this act the following persons shall be deemed to be engaged in the practice of chiropractic: (a) Persons who examine, analyze and diagnose the human living body, and its diseases by the use of any physical, thermal or manual method and use the X-ray diagnosis and analysis taught in any accredited chiropractic school or college and (b) persons who adjust any misplaced tissue of any kind or nature, manipulate or treat the human body by manual, mechanical, electrical or natural methods or by the use of physical means, physiotherapy (including light, heat, water or exercise), or by the use of foods, food concentrates, or food extract, or who apply first aid and hygiene, but chiropractors are expressly prohibited from prescribing or administering to any person medicine or drugs in materia medica, or from performing any surgery, as hereinabove stated, or from practicing obstetrics.

**History:** L. 1957, ch. 343, § 71; L. 1976, ch. 273, § 32; Feb. 13.



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 4 or describe oneself as a physical therapist, physiotherapist, ~~registered li-~~  
 5 ~~icensed physical therapist, P.T., Ph. T., M.P.T., D.P.T. or R.P.T. L.P.T.~~

Sec. 2

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.

person licensed to engage in  
 the practice of dentistry,  
 medicine and surgery, optometry,  
 or podiatry

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  
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