

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE.

The meeting was called to order by Chairperson Jim Morrison at 1:33 p.m. on March 25, 2003, in Room 243-N of the Capitol.

All members were present except Representatives Holland and Long, 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: None

Others attending: See Attached Guest List

A motion was made, seconded and passed to open discussion on SB 225.

The Chair reviewed the work of interested parties in coming to an agreement that resulted in the balloon amendment to the bill. (Attachment 1) Chip Wheelen, Executive Director, Kansas Association of Osteopathic Medicine, requested a notation in the minutes that KAOM did not participate in the agreement.

Staff Bill Wolff noted that the balloon represented all the details covered during the previous day's meeting.

A motion was made, seconded and unanimously passed to accept the balloon amendment to SB 225.

A motion was made and seconded to recommend SB 225 as amended favorable for passage.

Many members commended the physical therapists for completing the credentialing process and the different groups who worked hard to adjust their differences in order to produce the present bill, observing that the Committee would be remiss if it did not pass the bill out favorably. Other members commended the Chair for serving as a catalyst to bring the groups together in an agreement. Some members expressed concern that the Committee did not have enough time to fully explore the implications of the bill. One member commended the process for being sensitive to the interrelationships in the health-care field by allowing those presently working in health-care fields to provide testimony on the bill.

The motion passed by unanimous vote. Representative Showalter volunteered to carry the bill.

The meeting was adjourned at 1:55 p.m. No further meeting was scheduled.



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~~

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 intervention. 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 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. Physical therapy also includes 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. 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 any branch of the healing arts and the making of a medical diagnosis.

Attachment 1  
HHS 3-25-03

1-2

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 *icensed 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:*

, a licensed chiropractor  
 or a therapeutic licensed optometrist pursuant to subsection (e) of K.S.A. 65-1501, and amendments thereto

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 ~~istant, and may designate or describe oneself as a physical therapist as-~~

1 sistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst.

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

3 (f) "Council" means the physical therapy advisory council.

4 Sec. 2. K.S.A. 65-2903 is hereby amended to read as follows: 65-  
5 2903. There is hereby created a ~~state examining committee for~~ physical  
6 therapy *advisory council* to assist the ~~state board of healing arts~~ in carrying  
7 out the provisions of this law, ~~regarding the qualifications and examination~~  
8 ~~of physical therapists and physical therapist assistants.~~ The ~~examining~~  
9 ~~committee council~~ shall consist of five members, citizens and residents  
10 of the state of Kansas, three of whom shall be physical therapists, one of  
11 whom shall be a physician licensed by the board to practice medicine and  
12 surgery and one of whom shall be a member of such board.

13 Sec. 3. K.S.A. 65-2904 is hereby amended to read as follows: 65-  
14 2904. The ~~state examining committee council~~ shall be appointed as fol-  
15 lows: The ~~state board of healing arts~~ shall appoint one physician licensed  
16 to practice medicine and surgery and one member of the ~~state board of~~  
17 ~~healing arts~~, and the governor shall appoint three physical therapists who  
18 are duly ~~registered licensed~~ physical therapists who have at least three  
19 years' experience in physical therapy immediately preceding the appoint-  
20 ment and are actively engaged, in this state, in physical therapy. The  
21 foregoing appointees shall constitute the ~~state examining committee for~~  
22 ~~physical therapy council~~. Except as otherwise provided in this section, the  
23 members appointed in accordance with this section shall be appointed  
24 for terms of four years and shall serve until their successors are appointed  
25 and qualify. ~~Of the first three physical therapist members appointed by~~  
26 ~~the governor on or after July 1, 1982, one shall be appointed for a term~~  
27 ~~of two years, one shall be appointed for a term of three years and one~~  
28 ~~shall be appointed for a term of four years, and these members shall serve~~  
29 ~~until a successor is appointed and qualified. Thereafter, physical therapist~~  
30 ~~members appointed by the governor shall be appointed for terms of four~~  
31 ~~years and shall serve until their successors are appointed and qualified.~~  
32 *Members serving on the examining committee for physical therapy on the*  
33 *effective date of this act shall be members of the council and shall serve*  
34 *on the council until the conclusion of the terms for which they were ap-*  
35 *pointed to the examining committee for physical therapy and until their*  
36 *successors are appointed and qualified.* Each member of the ~~committee~~  
37 ~~council~~ shall take an oath as required by law for state officers. No physical  
38 therapist member appointed by the governor ~~on or after July 1, 1982,~~  
39 shall be appointed for more than two successive four-year terms com-  
40 mencing on or after that date.

41 Sec. 4. K.S.A. 65-2905 is hereby amended to read as follows: 65-  
42 2905. (a) The ~~state examining committee for~~ physical therapy *advisory*  
43 *council* provided for in this act shall elect from their members a president

1 and a vice-president, who shall serve for one year or until their successors  
2 are elected and qualified. The executive director of the ~~state board of~~  
3 ~~healing arts~~ shall act as secretary of the ~~examining committee council~~.

4 (b) The ~~state examining committee council~~ shall serve in an advisory  
5 capacity to the ~~state board of healing arts~~ in matters pertaining to physical  
6 therapy. The ~~state board of healing arts~~ may adopt reasonable rules and  
7 regulations relative to the qualification and examination of applicants as  
8 may be found necessary for the performance of its duties. As to any mat-  
9 ters coming under its jurisdiction, the ~~state examining committee council~~  
10 while in session may take testimony and any member may administer  
11 oaths in the taking of such testimony.

12 (c) A simple majority of the ~~committee council~~ shall constitute a quo-  
13 rum for the transaction of business. The secretary shall keep a record of  
14 all procedures of the ~~committee council~~.

15 ~~(d) The examining committee shall meet at a city designated by the~~  
16 ~~examining committee and the board, and under the direction of the state~~  
17 ~~board of healing arts, there conduct the examination for the registration~~  
18 ~~of physical therapists and certification of physical therapist assistants, at~~  
19 ~~least once each year, and may hold other meetings and examinations at~~  
20 ~~such times and places as the examining committee and board may~~  
21 ~~determine.~~

22 ~~(e) (d) The board may appoint and fix the compensation of such em-~~  
23 ~~ployees as may be necessary to assist the examining committee council,~~  
24 ~~and the board shall have the power to employ such expert assistance as~~  
25 ~~it may deem necessary to carry out the purposes of this act. Members of~~  
26 ~~the state examining committee for physical therapy council attending~~  
27 ~~meetings of such committee council, or attending a subcommittee meet-~~  
28 ~~ing thereof authorized by such committee council, shall be paid compensa-~~  
29 ~~tion, subsistence allowances, mileage and other expenses as amounts~~  
30 ~~provided in subsection (e) of K.S.A. 75-3223 and amendments thereto.~~

31 Sec. 5. K.S.A. 65-2906 is hereby amended to read as follows: 65-  
32 2906. (a) ~~It shall be the duty of~~ The state board of healing arts, with the  
33 advice and assistance of the ~~state examining committee, to council, shall~~  
34 pass upon the qualifications of all applicants for ~~examination and regis-~~  
35 ~~tration licensure or certification, provide for and conduct all examinations,~~  
36 ~~determine the applicants who successfully pass the examination, and duly~~  
37 ~~register license or certify such persons and adopt rules and regulations~~  
38 ~~for professional conduct of the registered or certified persons those ap-~~  
39 ~~plicants who meet the qualifications established by this act.~~

40 (b) An applicant applying for ~~registration licensure~~ as a physical ther-  
41 apist or for a certificate as a physical therapist assistant shall file a written  
42 application on forms provided by the ~~state board of healing arts~~, showing  
43 to the satisfaction of the board that the applicant meets the following



1 requirements:

2 (1) The applicant is of legal age;

3 (2) the applicant has successfully completed the academic require-  
4 ments of an educational program in physical therapy approved by the  
5 board which is appropriate for the certification or ~~registration~~ licensure  
6 of the applicant or, *if the applicant attended a program not approved by*  
7 *the board, the applicant shall present an evaluation by an entity approved*  
8 *by the board showing that applicant's educational program met the cri-*  
9 *teria a school must satisfy to be approved by the board;*

10 (3) the applicant has passed an examination required by the board  
11 which is appropriate for the certification or ~~registration~~ licensure of the  
12 applicant to test the applicant's knowledge of the basic and clinical sci-  
13 ences relating to physical therapy theory and practice; and

14 (4) the applicant has paid to the board all applicable fees established  
15 under K.S.A. 65-2911 and amendments thereto.

16 (c) The board shall adopt rules and regulations establishing the cri-  
17 teria which a school shall satisfy in order to be approved by the board for  
18 purposes of subsection (b). The board may send a questionnaire devel-  
19 oped by the board to any school for which the board does not have suf-  
20 ficient information to determine whether the school meets the require-  
21 ments of the board for approval and rules and regulations adopted under  
22 this section. The questionnaire providing the necessary information shall  
23 be completed and returned to the board in order for the school to be  
24 considered for approval. The board may contract with investigative agen-  
25 cies, commissions or consultants to assist the board in obtaining infor-  
26 mation about schools. In entering such contracts the authority to approve  
27 schools shall remain solely with the board.

28 ~~(d) All registrations or certificates issued prior to July 1, 1994, which~~  
29 ~~are in effect on the effective date of this act shall be and continue in full~~  
30 ~~force and effect and be eligible for renewal and reinstatement under~~  
31 ~~K.S.A. 65-2910 and amendments thereto.~~

32 Sec. 6. K.S.A. 65-2909 is hereby amended to read as follows: 65-  
33 2909. (a) The board may issue a ~~certificate of registration~~ license in phys-  
34 ical therapy without examination ~~therein~~ to an applicant who presents  
35 evidence satisfactory to the board of having passed the examination in  
36 physical therapy ~~of the American registry of physical therapists, approved~~  
37 ~~by the board or an examination before a similar, lawfully authorized ex-~~  
38 ~~amining board in physical therapy of another state, District of Columbia,~~  
39 ~~territory or foreign country, if the standards for registration licensure in~~  
40 ~~physical therapy in such other state, district, territory or foreign country~~  
41 ~~are determined by the board to be as high as those of this state. At the~~  
42 ~~time of making such application, the applicant shall pay to the board a~~  
43 ~~fee as prescribed, no part of which shall be returned.~~

1 (b) The board may issue a certificate as a physical therapist assistant  
2 without examination therein to an applicant who presents evidence sat-  
3 isfactory to the board of having passed an examination as a physical ther-  
4 apist assistant ~~as approved by the state board of healing arts~~ or an ex-  
5 amination before a ~~similar~~, lawfully authorized examining board in  
6 physical therapy of another state, District of Columbia, territory or foreign  
7 country, if the standards for certification in physical therapy in such other  
8 state, District of Columbia, territory or foreign country are determined  
9 by the board to be as high as those of this state. At the time of making  
10 such application, the applicant shall pay to the board a fee as prescribed,  
11 no part of which shall be returned.

12 (c) *The board may issue a temporary permit to an applicant for li-*  
13 *censure as a physical therapist or an applicant for certification as a phys-*  
14 *ical therapist assistant who applies for a temporary permit on a form*  
15 *provided by the board, who meets the requirements for licensure as a*  
16 *physical therapist or for certification as a physical therapist assistant or*  
17 *who meets all of the requirements for licensure or certification except*  
18 *examination and who pays to the board the temporary permit fee as re-*  
19 *quired under K.S.A. 65-2911 and amendments thereto. Such temporary*  
20 *permit shall expire ~~one year~~ three months from the date of issue or on*  
21 *the date that the board approves the application for licensure or certifi-*  
22 *cation, whichever occurs first. No more than one such temporary permit*  
23 *shall be granted to any one person.*

24 Sec. 7. K.S.A. 65-2910 is hereby amended to read as follows: 65-  
25 2910. (a) The ~~registration~~ license of every ~~registered~~ licensed physical  
26 therapist and the certification of every certified physical therapist assistant  
27 shall expire on the date established by rules and regulations of the ~~state~~  
28 ~~board of healing arts~~ which may provide renewal throughout the year on  
29 a continuing basis. In each case in which a ~~registration~~ license or certifi-  
30 cate is renewed for a period of time of less than one year, the board may  
31 prorate the amount of the fee established under K.S.A. 65-2911 and  
32 amendments thereto. The request for renewal shall be on a form provided  
33 by the board and shall be accompanied by the renewal fee established  
34 under ~~to~~ K.S.A. 65-2911 and amendments thereto which shall be paid  
35 not later than the expiration date of the ~~registration~~ license or certificate.

36 (b) The ~~state~~ board of ~~healing arts~~ shall require every ~~registered~~ li-  
37 censed physical therapist or certified physical therapist assistant as a con-  
38 dition of renewal to submit with the application for a renewal evidence  
39 of satisfactory completion of a program of continuing education required  
40 by the board. The board shall establish the requirements for each such  
41 program of continuing education by rules and regulations. In establishing  
42 such requirements the board shall consider any existing programs of con-  
43 tinuing education currently being offered to ~~registered~~ licensed physical



1 therapists or certified physical therapist assistants.

2 ~~(c)~~ The state board of healing arts prior to renewal of the registration  
3 of a physical therapist, shall require the registrant, if in the active practice  
4 of physical therapy within Kansas, to submit to the board evidence sat-  
5 isfactory to the board that the registrant is maintaining a policy of pro-  
6 fessional liability insurance as required by K.S.A. 40-3402 and amend-  
7 ments thereto and has paid the annual premium surcharge as required  
8 by K.S.A. 40-3404 and amendments thereto.

9 ~~(d)~~ (c) At least 30 days before the expiration of the registration license  
10 of a physical therapist or the certificate of a physical therapist assistant,  
11 the state board of healing arts shall notify the registrant licensee or cer-  
12 tificate holder of the expiration by mail addressed to the registrant's li-  
13 censee's last mailing address as noted upon the office records. If the reg-  
14 istrant licensee or certificate holder fails to pay the renewal fee by the  
15 date of expiration, the registrant licensee or certificate holder shall be  
16 given a second notice that the registration license or certificate has expired  
17 and the registration license or certificate may be renewed only if the  
18 renewal fee and the late renewal fee are received by the board within the  
19 thirty-day period following the date of expiration and that, if both fees  
20 are not received within the thirty-day period, the registration license or  
21 certificate shall be considered to have lapsed canceled for failure to renew  
22 and shall be reissued only after the physical therapist or physical therapist  
23 assistant has been reinstated under subsection ~~(e)~~ (d).

24 ~~(e)~~ (d) Any registrant licensee or certificate holder who allows the  
25 registration license or certificate to lapse be canceled by failing to renew  
26 may be reinstated upon recommendation of the state board of healing  
27 arts and, upon payment of the renewal fee and the reinstatement fee and  
28 upon submitting evidence of satisfactory completion of any applicable  
29 reeducation and continuing education requirements established by the  
30 board. The board shall adopt rules and regulations establishing appro-  
31 priate reeducation and continuing education requirements for reinstate-  
32 ment of persons whose registrations licenses or certificates have lapsed  
33 been canceled for failure to renew.

34 Sec. 8. K.S.A. 65-2911 is hereby amended to read as follows: 65-  
35 2911. (a) The state board of healing arts may adopt such rules and reg-  
36 ulations as necessary to carry out the purposes of this act. The executive  
37 director of the board shall keep a record of all proceedings under this act  
38 and a roster of all persons registered licensed or certified under the act.  
39 The roster shall show the name, address, date and number of the original  
40 certificate of registration license or certificate, and the renewal thereof.

41 (b) (1) The board shall charge and collect in advance fees provided  
42 for in this act as fixed by the board by rules and regulations, subject to  
43 the following limitations:

1	<del>Application fee, not more than</del> .....	<del>\$100</del>
2	<del>Temporary permit fee, not more than</del> .....	<del>40</del>
3	Application based upon certificate of prior examination, not more	
4	than.....	\$80
5	Application based on examination, not more than.....	100
6	<del>Renewal</del> Annual renewal fee, not more than.....	<del>60</del> 70
7	Late renewal fee, not more than.....	<del>70</del> 75
8	Reinstatement fee, not more than .....	80
9	Certified copy of license or certificate, not more than .....	15
10	<del>Written certification of license or certificate, not more than</del> .....	<del>15</del>
11	Duplicate license or certificate .....	15
12	Temporary permit.....	25

13 (2) The board shall charge and collect in advance fees for any ex-  
 14 amination administered by the board under article 29 of chapter 65 of  
 15 the Kansas statutes annotated and acts amendatory of the provisions  
 16 thereof or supplemental thereto as fixed by the board by rules and regu-  
 17 lations in an amount equal to the cost to the board of the examination. If  
 18 the examination is not administered by the board, the board may require  
 19 that fees paid for any examination under article 29 of chapter 65 of the  
 20 Kansas statutes annotated and acts amendatory of the provisions thereof  
 21 or supplemental thereto be paid directly to the examination service by the  
 22 person taking the examination.

23 (3) The fees fixed by the board by rules and regulations under article  
 24 29 of chapter 65 of the Kansas statutes annotated and acts amendatory  
 25 of the provisions thereof or supplemental thereto and in effect immediately  
 26 prior to the effective date of this act shall continue in effect until different  
 27 fees are fixed by the board by rules and regulations as provided under  
 28 this section.

29 ~~(b)~~ (c) The ~~state board of healing arts~~ shall remit all moneys received  
 30 by or for it from fees, charges or penalties to the state treasurer in ac-  
 31 cordance with the provisions of K.S.A. 75-4215, and amendments thereto.  
 32 Upon receipt of each such remittance, the state treasurer shall deposit  
 33 the entire amount in the state treasury. Twenty percent of such amount  
 34 shall be credited to the state general fund and the balance shall be cred-  
 35 ited to the healing arts fee fund. All expenditures from such fund shall  
 36 be made in accordance with appropriation acts upon warrants of the di-  
 37 rector of accounts and reports issued pursuant to vouchers approved by  
 38 the president of the board or by a person or persons designated by the  
 39 president of the board.

40 Sec. 9. K.S.A. 65-2912 is hereby amended to read as follows: 65-  
 41 2912. (a) The board may refuse to grant a ~~certificate of registration~~ license  
 42 to any physical therapist or a certificate to any physical therapist assistant,  
 43 or may suspend or revoke the ~~registration license~~ of any registered li-

1 *censed* physical therapist or certificate of any certified physical therapist  
2 assistant, *or may limit the license of any licensed physical therapist or*  
3 *certificate of any certified physical therapist assistant or may censure a*  
4 *licensed physical therapist or certified physical therapist assistant* for any  
5 of the following grounds:

6 (1) Addiction to or distribution of intoxicating liquors or drugs for  
7 other than lawful purposes;

8 (2) conviction of a felony if the board determines, after investigation,  
9 that the physical therapist or physical therapist assistant has not been  
10 sufficiently rehabilitated to warrant the public trust;

11 (3) obtaining or attempting to obtain ~~registration~~ *licensure* or certi-  
12 fication by fraud or deception;

13 (4) finding by a court of competent jurisdiction that the physical ther-  
14 apist or physical therapist assistant is a disabled person and has not there-  
15 after been restored to legal capacity;

16 (5) unprofessional conduct *as defined by rules and regulations*  
17 *adopted by the board;*

18 (6) the treatment or attempt to treat ailments or other health con-  
19 ditions of human beings other than by physical therapy and as authorized  
20 by this act;

21 (7) failure to refer patients to other health care providers if symptoms  
22 are present for which physical therapy treatment is inadvisable or if symp-  
23 toms indicate conditions for which treatment is outside the scope of  
24 knowledge of the ~~registered~~ *licensed* physical therapist;

25 (8) initiating treatment without prior consultation and approval by a  
26 physician licensed to practice medicine and surgery, by a licensed podi-  
27 atrist ~~or~~ by a licensed dentist; and

, by a licensed chiropractor,

28 (9) knowingly submitting any misleading, deceptive, untrue or fraud-  
29 ulent misrepresentation on a claim form, bill or statement.

or by a therapeutic licensed optometrist pursuant to subsection (e) of K.S.A. 65-1501, and amendments thereto

30 (b) All proceedings pursuant to ~~this section~~ *article 29 of chapter 65*  
31 *of the Kansas statutes annotated, and acts amendatory of the provisions*  
32 *thereof or supplemental thereto*, shall be conducted in accordance with  
33 the provisions of the Kansas administrative procedure act and shall be  
34 reviewable in accordance with the act for judicial review and civil enforce-  
35 ment of agency actions.

36 Sec. 10. K.S.A. 65-2913 is hereby amended to read as follows: 65-  
37 2913. (a) ~~Any person who, in any manner, represents oneself as a physical~~  
38 ~~therapist, or who uses in connection with such person's name the words~~  
39 ~~or letters physical therapist, physiotherapist, registered physical therapist,~~  
40 *It shall be unlawful for any person who is not licensed under this act as*  
41 *a physical therapist or whose license has been suspended or revoked* ~~(1)~~

in

42 ~~in~~ *any manner to represent oneself as a physical therapist or to use in*  
43 *connection with such person's name the words physical therapist, phy-*

1 *stiotherapist 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 *breiations 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) 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 ~~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:~~

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

- 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 *law 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*

1-1

- 1 in accordance with the provisions of law;
- 2 (7) nurses practicing their professions, when licensed and practicing
- 3 in accordance with the provisions of law or persons performing services
- 4 pursuant to the delegation of a licensed nurse under subsection (m) of
- 5 K.S.A. 65-1124 and amendments thereto;
- 6 (8) health care providers who have been formally trained and are
- 7 practicing in accordance with their training or have received specific
- 8 training in one or more functions included in this act pursuant to estab-
- 9 lished educational protocols or both;
- 10 (9) students while in actual attendance in an accredited health care
- 11 educational program and under the supervision of a qualified instructor;
- 12 (10) self-care by a patient or gratuitous care by a friend or family
- 13 member;
- 14 (11) optometrists practicing their profession when licensed and prac-
- 15 ticing in accordance with the provisions of article 15 of chapter 65 of the
- 16 Kansas Statutes Annotated and amendments thereto;
- 17 (12) podiatrists practicing their profession when licensed and prac-
- 18 ticing in accordance with the provisions of article 20 of chapter 65 of the
- 19 Kansas Statutes Annotated and amendments thereto;
- 20 (13) occupational therapists practicing their profession when licensed
- 21 and practicing in accordance with the occupational therapy practice act
- 22 and occupational therapy assistants practicing their profession
- 23 when ~~registered~~ and practicing in accordance with the occupational
- 24 therapy practice act;
- 25 (14) respiratory therapists practicing their profession when licensed
- 26 and practicing in accordance with the respiratory therapy practice act;
- 27 (15) physician assistants practicing their profession when licensed
- 28 and practicing in accordance with the physician assistant licensure act;
- 29 (16) persons practicing corrective therapy in accordance with their
- 30 training in corrective therapy;
- 31 (17) athletic trainers practicing their profession when registered and
- 32 practicing in accordance with the athletic trainers registration act;
- 33 (18) persons who massage for the purpose of relaxation, muscle
- 34 conditioning or figure improvement, so long as no drugs are used
- 35 and such persons do not hold themselves out to be physicians or
- 36 healers;
- 37 (19) barbers practicing their profession when licensed and
- 38 practicing in accordance with the provisions of article 18 of chapter
- 39 65 of the Kansas Statutes Annotated and amendments thereto;
- 40 (20) cosmetologists practicing their profession when licensed
- 41 and practicing in accordance with the provisions of article 19 of
- 42 chapter 65 of the Kansas Statutes Annotated and amendments
- 43 thereto;

licensed

1 (21) attendants practicing their profession when certified and  
2 practicing in accordance with the provisions of article 61 of chapter  
3 65 of the Kansas Statutes Annotated and amendments thereto[;]

4 [(22) naturopathic doctors practicing their profession when  
5 registered and practicing in accordance with the naturopathic doc-  
6 tor registration act.]

7 (d) Any patient monitoring, assessment or other procedures designed  
8 to evaluate the effectiveness of prescribed physical therapy must be per-  
9 formed by or pursuant to the delegation of a licensed physical therapist  
10 or other health care provider.

11 (e) Nothing in this act shall be construed to permit the practice of  
12 medicine and surgery. No statute granting authority to licensees of the  
13 state board of healing arts shall be construed to confer authority upon  
14 physical therapists to engage in any activity not conferred by this act.

15 Sec. 11. K.S.A. 65-2914 is hereby amended to read as follows: 65-  
16 2914. (a) No person shall employ fraud or deception in applying for or  
17 securing a ~~certificate of registration~~ license as a physical therapist.

18 (b) A person ~~registered~~ licensed under this act as a physical therapist  
19 shall not treat ailments or other health conditions of human beings other  
20 than by physical therapy unless duly licensed or registered to provide such  
21 treatment under the laws of this state.

22 (c) A person certified under this act as a physical therapist assistant  
23 shall not treat ailments or other health conditions of human beings except  
24 under the direction of a physical therapist duly ~~registered~~ licensed under  
25 this act. The word "direction" as used in this subsection (c) shall mean  
26 that the physical therapist shall see all patients initially and evaluate them  
27 periodically except in those cases in a hospital setting when the physical  
28 therapist is not immediately available, the physical therapist assistant may  
29 initiate patient care after telephone contact with the physical therapist for  
30 documented instruction. The physical therapist must then evaluate the  
31 patient and establish a plan of treatment as soon as possible with a min-  
32 imum weekly review.

33 (d) Any person violating the provisions of this section shall be guilty  
34 of a class B misdemeanor.

35 Sec. 12. K.S.A. 65-2916 is hereby amended to read as follows: 65-  
36 2916. (a) Any violation of the provisions of this act shall constitute a class  
37 B misdemeanor.

38 (b) When it appears to the board that any person is violating any of  
39 the provisions of article 29 of chapter 65 of the Kansas statutes annotated  
40 and acts amendatory of the provisions thereof or supplemental thereto,  
41 the board may bring an action in the name of the state in a court of  
42 competent jurisdiction for an injunction against such violation without  
43 regard to whether proceedings have been or may be instituted before the



1 board or whether criminal proceedings have been or may be instituted.  
2 (c) The board, in addition to any other penalty prescribed under the  
3 provisions of article 29 of chapter 65 of the Kansas statutes annotated and  
4 acts amendatory of the provisions thereof or supplemental thereto, may  
5 assess a civil fine, after proper notice and an opportunity to be heard,  
6 against a licensee for a violation of the provisions of article 29 of chapter  
7 65 of the Kansas statutes annotated and acts amendatory of the provisions  
8 thereof or supplemental thereto in an amount not to exceed \$5,000 for the  
9 first violation, \$10,000 for the second violation and \$15,000 for the third  
10 violation and for each subsequent violation. All fines assessed and col-  
11 lected under this section shall be remitted to the state treasurer in ac-  
12 cordance with the provisions of K.S.A. 75-4215, and amendments thereto.  
13 Upon receipt of each such remittance, the state treasurer shall deposit the  
14 entire amount in the state treasury to the credit of the state general fund.

15 Sec. 13. K.S.A. 65-2918 is hereby amended to read as follows: 65-  
16 2918. Physical therapists and physical therapist assistants practicing their  
17 profession, when ~~registered~~ licensed or certified and practicing under and  
18 in accordance with the provisions of article 29 of chapter 65 of the Kansas  
19 Statutes Annotated, and acts amendatory of the provisions thereof or sup-  
20 plemental thereto, shall not be construed to be practicing the healing arts  
21 or be subject to the healing arts act.

22 Sec. 14. K.S.A. 65-2919 is hereby amended to read as follows: 65-  
23 2919. Any person holding a valid ~~certificate~~ registration as a physical  
24 ~~therapy assistant~~ physical therapist immediately prior to the effective date  
25 of this act which has been issued by the state board of healing arts shall  
26 be deemed to be a ~~certified licensed~~ physical therapist ~~assistant~~ for the  
27 purposes of this act and article 29 of chapter 65 of the Kansas Statutes  
28 Annotated and acts amendatory of the provisions thereof ~~and~~ or supple-  
29 mental thereto and shall be subject to the provisions of this act and the  
30 provisions of such article and chapter of the Kansas Statutes Annotated  
31 and acts amendatory of the provisions thereof or supplemental thereto.

32 Sec. 15. K.S.A. 7-121b is hereby amended to read as follows: 7-121b.  
33 (a) Subject to subsection (b) of K.S.A. 40-3411 and amendments thereto,  
34 whenever a civil action is commenced by filing a petition or whenever a  
35 pleading states a claim in a district court for damages for personal injuries  
36 or death arising out of the rendering of or the failure to render profes-  
37 sional services by any health care provider, compensation for reasonable  
38 attorney fees to be paid by each litigant in the action shall be approved  
39 by the judge after an evidentiary hearing and prior to final disposition of  
40 the case by the district court. Compensation for reasonable attorney fees  
41 for services performed in an appeal of a judgment in any such action to  
42 the court of appeals shall be approved after an evidentiary hearing by the  
43 chief judge or by the presiding judge of the panel hearing the case. Com-

1-14

1 the activities of such person are within the scope of such person's edu-  
2 cation and training;

3 (11) to any person who counsels or provides weight-control services  
4 as a part of a franchised or recognized weight-control program or a  
5 weight-control program that operates under the general direction of a  
6 person licensed to practice the healing arts, nursing or a person licensed  
7 under this act;

8 (12) to any person who is acting as a representative of a trade asso-  
9 ciation and who engages in one or more activities included within the  
10 practice of dietetics as a representative of such association;

11 (13) to a ~~registered~~ *licensed* physical therapist who makes a dietetic  
12 or nutritional assessment or gives dietetic or nutritional advice in the  
13 normal practice of such person's profession or as otherwise authorized by  
14 law;

15 (14) to a dietitian licensed, registered or otherwise authorized to  
16 practice dietetics in another state who is providing consultation in this  
17 state;

18 (15) to any person conducting a teaching clinical demonstration  
19 which is carried out in an educational institution or an affiliated clinical  
20 facility or health care agency;

21 (16) to any person conducting classes or disseminating information  
22 relating to nonmedical nutrition; or

23 (17) to any person permitted to practice under K.S.A. 65-2872a and  
24 amendments thereto.

25 (c) Nothing in this act shall be construed to interfere with the relig-  
26 ious practices or observances of a bona fide religious organization, nor to  
27 prevent any person from caring for the sick in accordance with tenets and  
28 practices of any church or religious denomination which teaches reliance  
29 upon spiritual means through prayer for healing.

30 *[New Sec. 29. A policy of professional liability insurance ap-  
31 proved by the commissioner of insurance and issued by an insurer  
32 duly authorized to transact business in this state shall be main-  
33 tained in effect by each licensed physical therapist actively prac-  
34 ticing in this state as a condition to rendering professional services  
35 as a physical therapist in this state.]*

The state board of healing arts shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.

36 ~~Sec. 29.~~ *[30.]* K.S.A. 7-121b, 40-2,111, 60-513d, 60-2609, 65-1501,  
37 65-1902, 65-2891, 65-2901, 65-2902, 65-2903, 65-2904, 65-2905, 65-  
38 2906, 65-2907, 65-2908, 65-2909, 65-2910, 65-2911, 65-2912, 65-2913,  
39 65-2914, 65-2915, 65-2916, 65-2918, 65-2919, 65-4915, 65-4921, 65-5418  
40 and 65-5912 and K.S.A. 2002 Supp. 17-2707, 21-3721 and 40-3401 are  
41 hereby repealed.

42 ~~Sec. 30.~~ *[31.]* This act shall take effect and be in force from and  
43 after April 1, 2004, and its publication in the statute book.