Approved: March 13, 2003
Date

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE.

The meeting was called to order by Chairperson Senator Susan Wagle at 1:15 p.m. on February 25, 2003 in Room 231-N of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Mr. Tuck Duncan, Legislative Council,
KS Occupational Therapy Association
Mr. Larry Buening, Executive Director,
KS State Board of Healing Arts
Ms. Chris Collins, Director of Government Affairs,
KS Medical Society
Mr. Norm Hess, Director of Program Services,
March of Dimes Greater Kansas Chapter
Mrs. Angie Schreiber, Consumer

Others attending: See attached guest list

Continued hearing on SB225 - an act relating to physical therapy; providing for licensure of physical therapists

Upon calling the meeting to order, Chairperson Wagle announced that today, the Committee would hear neutral testimony on **SB225** and recognized Mr. Tuck Duncan, Legislative Council, Kansas Occupational Therapy Association (KOTA), who stated that they do not object to the licensing of physical therapists, however, for reasons set forth in his testimony, KOTA respectfully requests that the Committee adopt the proposed amendment. A copy of his testimony and the amendments are (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

The second neutral proponent to testify was Mr. Larry Buening, Executive Director, Kansas State Board of Healing Arts, who provided a brief history of the Board and stated since respiratory therapists, occupational therapists, and occupational therapy assistant have all had their credentialing levels changed to licensure over the past several years, there no longer appears to be any justification for denying this level of credentialing to physical therapists. He also offered four technical amendments and one comment with regard to the current level of credentialing of physical therapy assistant, which is a certification and would remain a certification under this current bill. A copy of Mr. Buening's testimony and the Board's proposed technical amendments are (Attachment 2) attached hereto and incorporated into the Minutes as referenced.

The Chair then asked the Committee if there were questions for Mr. Buening. Senator Brungardt asked if Mr. Buening would address for clarification, the paragraph on page 2, regarding protecting the terms of what the profession does. Ms. Correll asked, as a follow-up question, if Mr. Buening felt this was a title read protection bill. (Reference: Page 11, lines 23 through 26 and page 9 lines 42 and 43 create a scope of practice protection, per Mr. Furse).

As there were no further questions for Mr. Buening, the Chair recognized the last neutral conferee called upon was Ms. Chris Collins, Director of Government Affairs, Kansas Medical Society (KMS), who stated that this licensure bill does more than substitutes the term "licensure" for "registration" in the current physical therapy act, eliminating the old practice act's scope of practice definition and replacing it with an entirely new one that is comprised mostly of model language from the American Physical Therapy Association. She also offered an amendment to the bill. A copy of Ms. Collin's testimony and KMS' proposed amendment are (Attachment 3) attached hereto and incorporated into the Minutes as referenced.

Questions for Ms. Collins came from Senators Brungardt, Barnett, and Haley, and Ms. Correll ranging from clarifying the existing law, do occupational therapists or respiratory therapists diagnosis in their scope of practice or statutes, to be consistent how would a physical therapist's diagnosis be, the distinction of a diagnosis versus the direction of a plan of treatment, is there a distinction between diagnosis and evaluation, to current law using the term "evaluate."

As there were no further questions of Ms. Collins, the Chair made the Committee aware of written testimony from Ms. Pennie von Achen Consumer and Ms. Camilla M. Wilson, PT., PhD. Associate Professor and Chairperson of the Department of Physical Therapy. Copies of their testimonies are (Attachment 4) attached hereto and incorporated into the Minutes as referenced.

The Chair then closed the hearing on the bill.

Action on bills previously heard

The first bill was **SB225,** an act relating to physical therapy; providing for licensure of physical therapists. Referring to Mr. Daryl Menke's proposed amendments offered during the Monday, February 24, 2003, hearing on the bill, Senator Barnett made a motion to accept the amendments as submitted by Daryl Menke (asking for fee changes, per Mr. Furse, on page 2 line 8 replacing "physiological" with "anatomical," the second was on page 6, line 16, recommending three months, and the third is at the bottom of page 7 top of page 8 listing fees). Senator Brungardt seconded the motion and the motion carried.

In regards to the next amendment (page 11, line 22), Senator Barnett stated this would deal with issues raised about massage therapists and requested Mr. Furse add an additional explanation on this. Mr. Furse stated that this was the language the massage therapist's conferee suggested from the Board of Healing Art's statute and would simply exempt some persons similar to those persons under the Board of Healing Arts exemption there who massage for the purpose of relaxation, muscle conditioning or figure improvement. He also stated they should technically pick up the barbers because they are authorised specifically for hair massages and also to be safe, pick up cosmetologists. As there was no further discussion, Senator Barnett made a motion to accept this amendment and Senator Jordan seconded the motion, The motion carried.

Regarding Mr. Buening's proposed amendment found in his testimony today on page 3 referring to some clean up (Found on the following pages: page 7, line 19, page 10, lines 33 & 34, page 11, line 13, and page 12, line 14). Senator Barnett made a motion to accept the proposed amendments from the Board of Healing Arts as presented by Mr. Buening. It was seconded by Senator Salmans and the motion carried.

Regarding Ms Collin's proposed amendment found in her testimony today, referring to page 2, lines 10 & 11 of the bill, striking the words "diagnosis for physical therapy." Having heard the compromised language, Mr. Furse was open to suggestions of the Committee (if they would prefer to use the latter.) The Chair stated that their other option would be what the physical therapists and the medical society agreed to today and that would be on line 10, keeping the word "diagnosis," insert "solely" for "physical therapy" and on line 29, after the word cauterization, add "making a medical diagnosis," which would further clarify what type of a diagnosis a physical therapist could make. The Chair asked Senator Barnett, since there were two options, did he care which was worked? Senator Barnett responded stating that if this was truly compromised language then he would go with the latter. Senator Steineger made the motion to accept the compromised language, Senator Harrington seconded, and the motion passed.

The Chair then asked for further action on the bill. Mr. Furse stated that there was one other exception, the EMS exception since the bill also talked about airway clearance techniques (page 2, lines 19 and 12). He suggested this be added as another exclusion where the Committee excluded the massage therapists. A conceptual motion to accept this amendment was made by Senator Barnett and seconded by Senator Steineger. The motion carried.

The Chair then asked for the will of the Committee. Senator Barnett made a motion to advance **SB225** favorably as amended. Senator Jordan seconded and the motion carried.

The Chair then asked the Committee to turn to **SB199**, an act concerning the fitness and dispensing of hearing aids, stating there was no opposition to this bill. Senator Steineger made a motion to move out this bill favorably as written and not amended, seconded by Senator Harrington and the motion carried.

The next bill the Chair referred the Committee to was **SB151**, an act concerning county hospitals and asked Senator Barnett to explain the balloon offered through the testimony of the Emporia County Hospital conferees on February 20, 2003. He briefly went through the proposed amendments including: the addition of "district"hospitals to county hospitals (received testimony that a small number of district hospitals would be impacted by this legislation); joint enterprises (requirements would be for an exercise, a majority control, and that was to maintain IRS tax status); the balloon (on page 2 talks about joint enterprises - hospitals investing money for the provision of health care services) received from the attorney, Mr. Furse and the conferees on **SB151**. Ms. Correll asked, with the addition of hospital districts, does this raise the potential for hospital district or county, to actually enter into these enterprises to provide services outside of the district or county? Senator Barnett referred the question to Mr. Tom Bell, who stated that there is argument because of the way the governmental hospital laws are set up, those hospitals do not have the authority to operate the boundaries. (Ex. Shawnee County building a bridge in Johnson County) and his personal opinion in direct response to the question is, he does not think this will give them authority. Senator Brownlee asked, since we are adding amendatory language to new sections, why are these sections being amended and added to the bill? She also asked what is Section 4608? The Chair called on Mr. Furse who stated that this section is part of the county hospital statutes, that this definition section in the original bill refers to the next two sections and make similar changes in the district hospital statutes. A copy of the balloon is (Attachment 5) attached hereto and incorporated into the Minutes as referenced.

Senator Barnett made a motion to move to amend **SB151** as outlined on this balloon. Senator Harrington seconded the motion. The motion carried

Senator Harrington made a motion to move the bill out favorably as amended. Senator Barnett seconded and the motion carried.

The final bill the Chair referred the Committee to was **SB204,** an act concerning lead poisoning prevention stating that KDHE requested this bill of our Committee. After discussion, the Chair asked if the Committee would consider a substitute bill that would lift the sunset to 2010 and work with her to try and get an interim committee on the rest of the issues on this bill. Senator Haley stated as a prime sponsor of the bill in the House when it first comes out, he would like to see this extended to 2010 and would like to make the motion to activate a substitute bill that would extend the sunset of the provisions of the original child lead act to July 1, 2010 and put the rest of these issues in an interim committee. The Chair then said there was a motion to make a substitute bill too only have in this extension of the sunset to the year 2010. This was seconded by Senator Barnett and the motion carried.

Senator Haley made the motion that the Committee moves the bill out as amended favorably. This was seconded by Senator Harrington. The motion carried.

Hearing on SB129 - an act establishing a statewide birth defects information system; providing for administration by the secretary of health and environment and for collection of data; authorizing the use of such data for certain purposes, providing for the appointment of a council to assist in the implementation and establishment of the system.

The Chair called upon Ms. Emalene Correll, Kansas Legislative Research Department to give an overview of the bill. Highlights included:

- this bill was requested by the representatives of the March of Dimes which would create a birth defects information system for Kansas in some circumstances;
- all new legislation, no amendatory terms involved;
- note the definition on lines 18 and 19 which refer to a "free standing birthing center" (hopefully we don't have any of these in Kansas because it has a law that says that maternity centers are supposed to be licensed by the Secretary of Health and Environment) (ref.65-502 definition);
- line 27 - implementation depends on funding;
- printing error on line three, shows "expending" should be "expanding";
- sub (d) line 5, lists the purposes for which information for this reporting system could be used, calling attention to two paragraphs within sub ©), lines 20 through 23;
- Section 3 relates to how the Secretary may use the information that comes into the system, specifically to notify parents, guardians, and custodians of children of the medical care and other services available, and to dispose information assembled by the system with written consent of the parent or legal guarding of the child who is the subject of the information. Absent these two purposes, then access to the information is limited to specific persons in government entities.
- There are confidentiality provisions in the bill that would require that persons who have access to the records as a governmental entity or person, and also, would be bound by the system's confidentiality.
- an interesting provision, having not recalled in Kansas law, stating that if an entity or person is given access to this information system, certain information has to be put down regarding that person given access and this has to become a record, which in itself then becomes a public record;
- The only penalty apparently for violating an agreement (ex. Not to disclose any confidential information) would be denying further access to the system (usually when there is a breach of confidentiality involved, or there being some type of criminal penalty involved.)
- Section 4 addresses where a parent or legal guardian wants information removed from the system. (She questions that nowhere in the bill does it show where it is ever required that parents be notified that their names are going into the system.);
- Section 5 - establishes a council. Ms. Correll stated, in terms of the funding language, apparently whether or not there is funding, 30-days after this becomes effective (7-1-2003), the Secretary is to appoint a council that would include a minimum of persons whose affiliations are listed in the bill. Then not later than 30-days after these appointments are made, the Secretary is to convene the first meeting of the council.
- Section 6 - lists what the council is to do 180 days after the effective date of the establishment of the council and its adoption of the rules and regs. (Ms. Correll mentioned that this is an unrealistic time frame according to the rules and regs specialists she had visited with because it would take at least 120 days to get the rules and regs through the system.)
- Section 7 - requires that three years after the system is implemented, the Secretary is to prepare a report as directed by the council and annually after that.

Questions for Ms. Correll came from Senators Brownlee, Barnett, and Wagle ranging from concerns on page 3, beginning on line 36 (information could be accessed by various entities and describes info to be maintained) is there any place else where access is given to medical records; reference to line 20, page 3 (Ex. We know the number of aids cases we have, but do not know who, and abortion statistics); line 5, page 3, regarding an open public record; page 1, beginning with line 40, regarding who has access; the fiscal note subject to appropriations, setting up a council will cost money, to federal funds available.

As there were no more questions for Ms. Correll, the Chair called upon the first proponent conferee, Mr. Norm Hess, Director of Program Services, March of Dimes Greater Kansas Chapter who stated that to date, 35 states have entered into cooperative agreements with the Center for Disease Control (CDC) and have been awarded funding from the CDC to plan and implement birth defects information systems.

He also stated that in September 2003, another round of CDC funding will be awarded to states that are committed to enhancing their current birth defects' information system or establishing new systems, including pilot projects. A copy of his testimony and a letter of support from the Kansas Chapter of the American Academy of Pediatrics are (Attachment 6) attached hereto and incorporated into the Minutes as referenced.

The next proponent conferee called upon was Mrs. Angie Schrieber, Consumer, from Emporia, Kansas, who gave a brief history of her daughter's battle with VATER Association (VATER is an acronym for vertebrae, anus, trachea-esophageal and renal/radial and associated, the occurrence of these defects together is statistically significant) and the lack of information and support available to the public. She also stated that when working on the registry, there is some sort of option that parents could opt to do some kind of match or availability of information to be able to find others who share these birth defects A copy of her testimony is (Attachment 7) attached hereto and incorporated into the Minutes as referenced. A copy of the VATER Connection Newsletter is filed in Chairperson Wagle's office.

The Chair announced that they had gone over time and she did not feel comfortable working the bill yet. Senator Brownlee recommended that the language in paragraph two, page 2, starting on line 33, covering the point where the Secretary may disclose information assembled by the system with the written consent of the parent or legal guardian of the child who is subject of the information. With this point she felt the Secretary could contact those parents who are listed in the system, then the Committee could amend out, starting at line 36, everything down to line 19 on page 3, and what seems outside seems to be typically acceptable with confidential medical records being removed, but still in the bill for statistical purposes, paragraph b (1) on page 3, states the Secretary may disclose info that does not have identifying pieces of information.

The Chair then asked Mr. Furse to come up with some language that the entire bill is subject to appropriations stating, she felt that the goal would be to allow KDHE to apply for a grant and if the grant does not come through, we would not do anything. Ms. Correll asked that information regarding "maternity centers" be reworked and two technical changes regarding reimbursing for expenses, and where we have this sort of information that is collected by a state agency where we do not have some sort of criminal penalty for breach of confidentiality (class B misdemeanors). Senator Barnett also recommended that in Section 6, removing the entire line 24 (Not later than 180 days after the effective date of this action). The Chair then asked Ms. Correll and Mr. Furse if they would be available to clean up the bill. Senator Haley also recommended the amendment offered by Mr. Keith Landis, Christian Science Committee on Publication for Kansas. A copy of Mr. Landis' amendment is (Attachment 8) attached hereto and incorporated into the Minutes as referenced

Adjournment

As it was past time for the Senators to be in session, the meeting was adjourned. The time was 2:37 p.m.

The next meeting is scheduled for March 6, 2003.

53 in attendance

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

DATE: Tuesday, February 25, 2003

NAME	REPRESENTING
Tom Brunk	Ks. Athletic Trainers Society
Cindy Shaw	March of Dimes
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Mark Schreiber	self
TUCK DUNCAN	Ks. Occupational therapy Assn.
Tom Litney	President Kansas Occupational Therapy Association
Tami Litney	OTR
Angie Schreiber	self
Jennifer Schwartz	ATK
Gina Postner	Sen. Barnett
Ranie Ann Rower	KAHP
Carolyn Bloom	Ks Physical Therapy Assn.
Karole Bradford	Inter-Faith Ministries
Gary Counselman DC	KCA
Rebecca Rice	KCA
Chip Wheelen	Assn of Osteo. Med.
Rich Guthrie	Health Midwest
Norm Hess	March of Dimes
Vickie Burgess	Burgess & Assoc.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

in att. 58

DATE: Tuesday, February 25, 2003

NAME	REPRESENTING
LARRY BUENING	BD OF HEALING ARTS

3 of 1

pg 2 not with pg on clipboard

9+t1

KANSAS OCCUPATIONAL THERAPY ASSN.

SUITE 310
720 SW JACKSON STREET
TOPEKA, KS 66603
(785) 233-4111

TO: Senate Committee on Public Health and Welfare
FROM: R.E. "Tuck" Duncan
Kansas Occupational Therapy Association
RE: SB 225
DATE: February 24, 2003

The Kansas Occupational Therapy Association (KOTA) does not object to the licensing of physical therapists. However, for the reasons set forth respectfully request that the committee adopt the amendments proposed.

Many health professions promote or facilitate "functional independence" through their interventions with consumers. The term "function" has many meanings. Physical therapists have traditionally focused on motor impairments and related functional limitations, with an approach to intervention based on therapeutic exercise. Occupational therapists assess all dimensions of the patient's functional skills physical, cognitive, sensorimotor, and psychosocial and use purposeful activity or interventions to maximize an individual's level of independence within the context of the patient's home, work, and community environment.

The Kansas Occupational Therapy Association believes that it is important to clarify the distinct role of each profession in state practice acts. A profession's domain or scope of practice is based on the components of the scope being included historically in educational preparation and clinical application within the profession. Expansion of the physical therapy scope of practice to place new emphasis on functional training in self care and on home, community and work reintegration should clarify that the primary focus of physical therapy intervention is on *physical movement and mobility*.

While contemporary physical therapists may skillfully apply biomechanical and ergonomic analyses to some daily activities, they do not address perceptual, cognitive and psychosocial aspect of function. An article in *PT Magazine* addressing physical therapy intervention with Parkinson's disease underscores this, with the discussion of the patient's functional limitations in daily activities more narrowly confined to addressing the need for improvement in "flexibility, balance control and movement organization."

In contrast, the focus of occupational therapy is on an individual's ability to effectively engage in performance areas that are purposeful and meaningful, such as activities of daily living (ADLs), work and other productive activities, and leisure activities. Occupational therapists evaluate and treat physical, sensorimotor, cognitive and psychosocial problems that may interfere with an individual's performance abilities while also taking into account the performance context, such as environmental factors.

Senate Public Health + Welfare Committee
Date: February 24, 2003
Attachment 1-1

Occupational therapy intervention uses the purposeful activity itself as a treatment medium. For example, an administrative assistant who has functional limitations because of a mild stroke would be directed to work on restoring fine motor skills and eye-hand coordination through the purposeful activity of typing on a computer keyboard rather than through routine coordination exercises.

KOTA believes that the unqualified expansion of the physical therapy scope of practice articulated in *The Model Practice Act for Physical Therapy*, approved by the Federation of State Boards of Physical Therapy (FSBPT), is not supported by the education and training of the profession. Additional dimensions of function which are addressed integrally as a part of occupational therapy education, training and practice, such as cognition, perception and context, are not a focus of physical therapy preparation.

A review of the educational standards for occupational and physical therapists (*the Standards for an Accredited Educational Program for the Occupational Therapist* and the *Evaluative Criteria for Accreditation of Education Programs for the Preparation of Physical Therapists*) confirms fundamental differences in the education of the two professions. The occupational therapy Standards specifically *require* the student to have a broad-based knowledge in the behavioral sciences while in the physical therapy Evaluative Criteria behavioral sciences are *suggested*. Human development is fundamental to the entire program in occupational therapy. In the physical therapy Evaluative Criteria, there is no standard requiring the study of human development. Physical therapy training in evaluative criteria, refers to the examination of a patient/client by obtaining a history using suggested test and measures similar to ones used in the occupational therapy Standards, and treatment interventions similar to those required by occupational therapists are suggested for physical therapists. However, the foundation for understanding and applying these evaluations and interventions beyond the biomechanical aspects or in context of the client's roles and environment is noticeably absent.

Expansion of the PT scope of practice is also not supported by the professional research. A profession's literature typically reflects the focal areas of clinical practice. Review of the official journals of the respective professions for the past 10 years; that is, *The American Journal of Occupational Therapy (AJOT)* and *Physical Therapy (PT)*, revealed only 71 references to activities daily living (as subject heading) in the PT journal compared to 210 for OT using the MEDLINE bibliographic electronic database, and 31 references for PT versus 148 for OT using CINAHL.

Occupational therapy practitioners and physical therapy practitioners often work as part of an interdisciplinary team of health and rehabilitation providers along with physiatrists, speech language pathologists and others in a range of practice settings including hospitals, nursing facilities, home health care, community mental health services, comprehensive rehabilitation facilities, schools, etc.

Treatment goals will often be shared by these professions – ie. for a patient to achieve a certain level of functioning following a stroke. The physical therapist will typically focus on the patient's underlying impairments with a focus on physical restoration, physical performance and mobility, working with the patient on getting in and out of bed, walking, muscle movements and patterns. The occupational therapist will address the skills necessary for the person with stroke

to function independently in home, community and work settings. The occupational therapy practitioner will assess the patient's sensorimotor, cognitive and psychosocial/psychological performance components as a result of the stroke that may interfere with the individual's performance abilities and develop a treatment plan that remediates or compensates for these deficits. For instance, when a patient is unable to dress himself or herself, several performance components may be causing the performance deficit. The person with stroke may have limited motor control and proprioception on one side of his or her body. The patient may also have a visual field cut or neglect of the affected side, as well as an impaired body scheme, decreased attention span, or problems sequencing the steps of an activity. The occupational therapist is skilled in assessing and treating these areas and providing valuable information to the treatment team regarding the impact of these problem areas.

The physical therapist's treatment for a patient with a spinal cord injury would include upper extremity strength, range of motion, general conditioning and wheelchair management/propulsion training. Treatment interventions by the occupational therapist would focus on those activities necessary to ensure that the patient will be independent in self care, community activities, etc. and will include instructions in problem solving, self management, dressing and grooming, caregiver directions and wheelchair management and transfer training.

Occupational therapy practice acts in the various states clearly acknowledge and articulate the role of occupational therapy in developing or restoring daily living skills, including self care and other skills necessary for individuals to function independently in home, community and work settings. The statutory recognition by state legislatures underscores the assertion that these are traditional areas of occupational therapy practice, which are grounded in the educational preparation of practitioners and history of clinical application. *Please see the attached examples from the states of New Jersey and Wisconsin.*

KOTA believes that the following modifications to the physical therapy legislation are necessary to appropriately reflect the education and practice of the profession.

Suggested Modifications to the Definition of Physical Therapy

The first recommendation would be to suggest that the phrase "functional training in self care and in home, community or work reintegration" be deleted from the proposed legislation. The language does not accurately describe the practice of physical therapy.

If the Committee does not agree to this change, the second recommendation would be to suggest modifications to the definition. To more accurately reflect the traditional educational preparation and practice of physical therapists, the following amendments (***bolded italics***) are recommended. These amendments clarify the context and primary focus of physical therapy intervention, which is physical movement and mobility.

Proposed language:

(c) "Practice of Physical Therapy" means examining, evaluating and testing individuals with mechanical, physiological and developmental impairments, functional limitations ***in physical movement and mobility***, and disabilities or other health and movement-related conditions in order to determine a diagnosis for physical therapy, prognosis, plan of therapeutic intervention, and to assess the ongoing effects of physical intervention. The "practice of physical therapy" also includes alleviating impairments, functional limitations ***in physical movement and mobility*** and disabilities by designing, implementing, and modifying therapeutic interventions that may include, but are not limited to, therapeutic exercise; functional training ***related to physical movement and mobility*** 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 ***related to physical movement and mobility***; 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 ***related to physical movement and mobility***, including the promotion and maintenance of fitness, health and quality of life in all age populations and engaging in administration, consultation, education and research.

* * *

There are also references in the bill to occupational therapy that I believe should be references to physical therapy. Further, whenever a licensed occupational therapist is referenced, so should licensed occupational therapy assistants be identified.

Thank you for your kind attention to and consideration of these matters,

---

R.E. "Tuck" Duncan, Legislative Liaison and Association Administrator for the Kansas Occupational Therapy Association (KOTA). University of Kansas, B.S., Journalism '73; Washburn University J.D. '76. Secretary and Chief Counsel, Kansas Board of Tax Appeals '76-'78; Assistant Attorney General, Kansas Alcoholic Beverage Control, '79-'81; Assistant City Attorney, City of Topeka, KS, '81-'83. Private practice 1983 to present. Admitted to practice in Kansas, Federal District Court, Circuit Courts of Appeal, and the United States Supreme Court. Mr. Duncan has made numerous presentations to educational groups and state conferences on occupational therapy law. Mr. Duncan currently sits as a Judge *Pro Tem*, Shawnee County District Court for Domestic Violence matters. Mr. Duncan represents the Kansas Wine and Spirits Wholesalers Association , KOTA and American Medical Response before the Kansas Legislature. Previous activities include: President Topeka Friends of the Zoo, Member and Vice-Chairman Topeka Public Schools Board of Education; Chairman Kansas Expocentre Operating Board; President Voluntary Action Center (a United Way agency); Member, Topeka and Kansas Bar Associations; Life Member Washburn Law School Association; Life Member, University of Kansas Alumni Association; Life Member Topeka/Shawnee County Friends of the Library; President-Elect and Board Member Shawnee County Historical Society; 2002-2003 Chairman Topeka Postal Service Customer Advisory Council; and Chairman, Topeka Housing Authority 1999-present. Senior Warden, St. David's Episcopal Church. Married 28 years to Kathleen Allen Duncan, father two adult sons and proud grandfather to granddaughter Tessa, age 4.

Proposed Expansion of PT Scope of Practice - State Legislative History
Comparison of Introduced & Compromise/Final Language*

State	Bill Number	Language as Introduced	Final Language	Status	Comm
New Jersey	SB1663/ S2004/ A2557	[d.] "Physical therapy" and "physical therapy practice" means the [health specialty concerned with the prevention of physical disability and the habilitation or rehabilitation of congenital or acquired physical disabilities resulting from, or secondary to, injury or disease] identification of physical impairment or functional limitation that occurs as a result of injury or congenital or acquired disability, or other physical dysfunction through examination, evaluation and diagnosis of the physical impairment or functional limitation and the establishment of a prognosis for the resolution or amelioration thereof, and treatment of the physical impairment or functional limitation, which shall include, but is not limited to, the alleviation of pain, physical impairment and functional limitation by therapeutic intervention, including treatment by means of manual therapy techniques and massage, electro-therapeutic modalities, the use of physical agents, mechanical modalities, hydrotherapy, therapeutic exercises with or without assistive devices, neurodevelopmental procedures, joint mobilization, **functional training in self-care, providing assistance in community and work integration or reintegration**, providing training in techniques for the prevention of injury, impairment, functional limitation, or dysfunction, providing consultative, educational, other advisory services, and collaboration with other health care providers in connection with patient care, and such other treatments and functions as may be further defined by the board by regulation. (cf: P.L.1983, c.296, s.3) 2. Section 4 of P.L.1983, c.296 (C.45:9-37.14) is amended to read as follows: 4. a. [The practice of physical therapy shall include examination, treatment, or instruction to detect, assess, prevent, correct, alleviate and limit physical disability, bodily malfunction and pain from injury, disease or other physical condition. Physical therapy shall also include the evaluation, administration and modification of treatment and instruction, including, but not limited to, the use of physical measures, activities, agents and devices for preventive and therapeutic purposes; neurodevelopmental procedures; the performance and evaluation of tests and measurements; and the provision of consultative, educational and other advisory services for the purpose of preventing or reducing the incidence and severity of physical disability, bodily malfunction and pain consistent with the practice of physical therapy. b.] Nothing in [this section] P.L.1983, c.296 (C.45:9-37.11 et seq.), shall be construed to authorize the [diagnosis of] interpretation of data for the purpose of diagnosing disease, organic condition or the practice of medicine and surgery [or], chiropractic, podiatry, occupational therapy, or prosthetics by any person not licensed to do so pursuant to [chapter 9 of] Title 45 of the Revised Statutes.	[d.] "Physical therapy"[means] and "physical therapy practice" mean the [health specialty concerned with the prevention of physical disability and the habilitation or rehabilitation of congenital or acquired physical disabilities resulting from, or secondary to, injury or disease] identification of physical impairment or **movement-related** functional limitation that occurs as a result of injury or congenital or acquired disability, or other physical dysfunction through examination, evaluation and diagnosis of the physical impairment or **movement-related** functional limitation and the establishment of a prognosis for the resolution or amelioration thereof, and treatment of the physical impairment or **movement-related** functional limitation, which shall include, but is not limited to, the alleviation of pain, physical impairment and **movement-related** functional limitation by therapeutic intervention, including treatment by means of manual therapy techniques and massage, electro-therapeutic modalities, the use of physical agents, mechanical modalities, hydrotherapy, therapeutic exercises with or without assistive devices, neurodevelopmental procedures, joint mobilization, **movement-related functional training in self-care, providing assistance in community and work integration or reintegration**, providing training in techniques for the prevention of injury, impairment, **movement-related functional limitation**, or dysfunction, providing consultative, educational, other advisory services, and collaboration with other health care providers in connection with patient care, and such other treatments and functions as may be further defined by the board by regulation. (cf: P.L.1983, c.296, s.3) 2. Section 4 of P.L.1983, c.296 (C.45:9-37.14) is amended to read as follows: 4. a. [The practice of physical therapy shall include examination, treatment, or instruction to detect, assess, prevent, correct, alleviate and limit physical disability, bodily malfunction and pain from injury, disease or other physical condition. Physical therapy shall also include the evaluation, administration and modification of treatment and instruction, including, but not limited to, the use of physical measures, activities, agents and devices for preventive and therapeutic purposes; neurodevelopmental procedures; the performance and evaluation of tests and measurements; and the provision of consultative, educational and other advisory services for the purpose of preventing or reducing the incidence and severity of physical disability, bodily malfunction and pain consistent with the practice of physical therapy.] (Deleted by amendment, P.L. , c.)(pending before the Legislature as this bill). b. Nothing in [this section] P.L.1983, c.296 (C.45:9-37.11 et seq.), shall be construed to authorize the [diagnosis of] interpretation of data for the purpose of diagnosing disease, organic condition or the practice of medicine and surgery [or], chiropractic, podiatry, occupational therapy, or prosthetics by any person not licensed to do so pursuant to [chapter 9 of] Title 45 of the Revised Statutes.	Pending	

over

Wisconsin		Final language was introduced language	"Physical therapy" means 1. Examining, evaluating, or testing individuals with mechanical, physiological, or develop-mental impairments, **functional limitations related to physical movement and mobility**, disabilities, or other movement–related health conditions, in order to determine a diagnosis, prognosis, or plan of therapeutic intervention or to assess the ongoing effects of intervention. In this subdivision, "testing" means using standardized methods or techniques for gathering data about a patient. 2. Alleviating impairments or functional limitations by instructing patients or designing, implementing, or modifying therapeutic interventions. 3. Reducing the risk of injury, impairment, functional limitation, or disability, including by promoting or maintaining fitness, health, or quality of life in all age populations. 4. Engaging in administration, consultation, or research that is related to any activity specified in subds. 1. to 3.	Signed	

		As introduced	Proposed Language		
Kansas	SB225	(c) "Practice of physical therapy" means examining, evaluating and testing individuals with mechanical, physiological and developmental impairments, functional limitations and disabilities or other health and movement-related conditions in order to determine a diagnosis for physical therapy, prognosis, plan of therapeutic intervention and to assess the ongoing effects of physical therapy 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.	(c) "Practice of Physical Therapy" means examining, evaluating and testing individuals with mechanical, physiological and developmental impairments, functional limitations and disabilities ***in physical movement and mobility***, or other health and movement-related conditions in order to determine a diagnosis for physical therapy, prognosis, plan of therapeutic intervention, and to assess the ongoing effects of physical intervention. The "practice of physical therapy" also includes alleviating impairments, functional limitations ***in physical movement and mobility*** and disabilities by designing, implementing, and modifying therapeutic interventions that may include, but are not limited to, therapeutic exercise; functional training ***related to physical movement and mobility*** 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 ***related to physical movement and mobility***; 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 ***related to physical movement and mobility***, including the promotion and maintenance of fitness, health and quality of life in all age populations and engaging in administration, consultation, education and research.		KOTA pro-posal

*Source: American Occupational Therapy Association

att 2

KANSAS BOARD OF HEALING ARTS

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

MEMO

TO: Senate Committee on Public Health and Welfare

FROM: Lawrence T. Buening, Jr.
Executive Director

DATE: February 24, 2003

RE: **S.B. No. 225**

Thank you for the opportunity to appear before you and provide information on S.B. No. 225 This bill primarily would change the credentialing level of physical therapists from registration to licensure. The 15-member Board met on Saturday, February 15, 2003, and was provided with a copy of the bill at that time. The Board did not review the bill prior to its meeting since it was not available until a few days prior to the meeting. At its meeting February 15, the Board took no position on S.B. No. 225. However, based upon my knowledge of the Board's position on physical therapy bills introduced in past sessions and my meetings with physical therapists and the Revisor's office, I would like to make some brief comments.

As this is my first appearance before this Committee this year, I want to briefly describe the State Board of Healing Arts. The Board was created in 1957 by the combination of the then existing Medical, Osteopathic and Chiropractic Boards. Over the years, additional professions have been added to the Board so that as of February 12, 2003, the Board regulates almost17,000 individuals in 11 health care professions. Attached is a statistical listing of the number of individuals regulated in each profession. In addition, the Board has issued postgraduate permits to 574 individuals who are engaged in a postgraduate training programs in Kansas. Effective January 1, 2003, pursuant to legislation passed during the 2002 Legislative Session, the Board began the regulation of naturopathic doctors and persons and entities that dispense contact lenses through the mail. At its meeting February 15, the Board authorized the issuance of the first registration to a naturopathic doctor.

235 S. Topeka Boulevard, Topeka, Kansas 66603-3068
Voice 785-296-7413 Fax 785-296-0852 www.ksbha.org

Senate Public Health & Welfare Committee
Date: February 25, 2003
Attachment 2-1

The Board is comprised of 15 members—five medical doctors, three osteopathic doctors, three chiropractors, one podiatrist and three members from the general public. The other professions regulated by the Board have advisory councils that provide advice and assistance to the Board. The composition of each advisory council differs by profession. The smallest is the contact lens advisory council that consists of three members. The largest is the respiratory therapy care council consisting of seven members.

Until recently, the Board issued licenses only to individuals in those professions that were allowed by statute to independently diagnose and provide health care—medical doctors, osteopathic doctors, chiropractors and podiatrists. Individuals in professions that relied upon an order, referral or supervision from a doctor to perform services in their occupation were issued registrations or certificates. That changed when the 1999 Legislature amended the credentialing level of respiratory therapists from registration to licensure although respiratory therapists must still "practice under the supervision of a qualified medical director and with the prescription of a licensed physician". K.S.A. 65-5502. The 2000 Legislature changed the credentialing level of physician assistants from that of being registered to licensure although physician assistants "practice in a dependent role with a responsible physician". K.S.A. 65-28a08. Last year the Legislature changed the credentials of both occupational therapists and occupational therapy assistants from registration to licensure although the practice of occupational therapy must still primarily be "pursuant to the referral, supervision, order or direction of a physician, a licensed podiatrist, a licensed dentist or a licensed optometrist". K.S.A. 65-5402(b).

Although the aforementioned professions have had the credentialing level changed to licensure, only respiratory therapists were given a scope of practice so that it is unlawful "to practice the art and science of respiratory therapy" without being licensed as a respiratory therapist. K.S.A. 65-5514(a). However, even this statute lists 11 exceptions for which a license is not required. Although physician assistants, occupational therapists and occupational therapy assistants now are licensed, the amendments made by the Legislature preserved the title protection that had existed under registration but did not create an exclusive scope or right of practice. In other words, unlicensed persons may still perform those acts that are done by physician assistants, occupational therapists and occupational therapy assistants. However, unless licensed, a person may not use those particular title designations.

As previously stated, the Board has not taken a position on S.B. No. 225 and is, therefore, neutral. Physical therapy bills introduced in past years have not been favored by the Board for primarily two reasons: (1) the creation of practice that did not require consultation or approval by a physician, podiatrist or dentist; or (2) the creation of a scope of practice that would be exclusive to licensed physical therapists. S.B. No. 225 does not appear to contain language that would establish either the independent practice of physical therapy or create an exclusivity that would deprive other health care providers from performing services that would fall within the definition of physical therapy. Furthermore, since respiratory therapists, occupational therapists and occupational therapy assistants have all had their credentialing levels changed to licensure over the past several years, there no longer appears to be any justification for denying this level of credentialing to physical therapists.

Many of the physical therapy statutes have not been substantially altered for many years. S.B. No. 225 contains a number of amendments recommended by the Board that would result in improvement in the administration of these statutes. K.S.A. 65-2911 is amended in section 8 by adding a subsection (b)(1) to provide for statutory fee maximums that had not previously been included in the physical therapy statutes. K.S.A. 65-2906 is expanded in section 5 to provide for a mechanism for the Board to deal with applicants from unapproved schools, particularly those outside the United States, that has not heretofore existed. K.S.A. 65-2909 is amended in section 6 to provide statutory authority for a temporary permit. K.S.A. 65-2904 changes the title of the state examining committee for physical therapy to the physical therapy advisory council. Neither the Board nor the examining committee has administered the examinations required for registration or certification for a number of years. This is also in keeping with the statutes for the other professions regulated by the Board that do not have a member on the Board. K.S.A. 65-2913 adds a list of exceptions to insure that the practices of other health care professions will not be infringed upon or impeded. The Board wishes to express its appreciation to the physical therapy profession and the Revisor's office in making these changes that will assist the Board in its administration of the statutes regulating physical therapy.

One comment and four amendments to S.B. No. 225 are propounded:

Physical therapist assistants: The bill would keep the credentialing level of physical therapist assistants at certification. Physical therapist assistants are the only individuals that receive a certification from the Board. All other professionals regulated by the Board receive either a license or registration. Certification is defined in the Kansas Act on Credentialing as recognition by a nongovernmental agency. Furthermore, last year the credentialing level of both occupational therapists and occupational therapy assistants was changed to licensure. Please note, however, that occupational therapy assistants had previously been registered and not certified.

Page 7, Line 19: The "(e)" should be changed to "(d)" due to the deletion of current subsection (c) of K.S.A. 65-2910 and the need to re-letter the subsection in this statute accordingly.

Page 10, Lines 33 and 34: The words "licensed physician" should be stricken and the word "licensee" inserted in their stead. Subsection (g) of K.S.A. 65-2872 and the delegation authority granted thereby apply to all three branches of the healing arts—medical doctors, osteopathic doctors and chiropractors—and not just to those licensed to practice medicine and surgery.

Page 11, Line 13: The words "and occupational therapy assistants" should be added immediately after the word "therapists" in this line.

Page 12, Line 14: Insert "in the name of the state" after the word "action".

Thank you for the opportunity to provide information to you. I would be happy to respond to any questions.

STATISTICS

Kansas State Board of Healing Arts

County Breakdown

Licensee / Registrant Statistics
Updated February 12, 2003

LICENSEES	Active	Exempt	Federal	Inactive	Military	TOTAL
Medical Doctors	5,598	910	207	1,725	213	**8,653**
Osteopathic Doctors	540	48	19	150	11	**768**
Chiropractic Doctors	727	43	2	169	5	**946**
Podiatric Doctors	114	5	2	14	1	**136**
Physician Assistants	470	0	18	16	1	**505**
Respiratory Therapists	1,451	0	0	0	0	**1,451**
Total Licensees	**8,900**	**1,006**	**248**	**2,074**	**231**	**12,459**

REGISTRANTS	Active	Exempt	Federal	Inactive	Military	TOTAL
Physical Therapists	1,643	0	0	0	0	**1,643**
Physical Therapist Assistants	970	0	0	0	0	**970**
Occupational Therapists	1,198	0	0	0	0	**1,198**
Occupational Therapy Assistants	318	0	0	0	0	**318**
Athletic Trainers	223	0	0	9	0	**232**
Total Registrants	**4,352**	**0**	**0**	**9**	**0**	**4,361**

Kansas State Board of Healing Arts
235 S. Topeka Boulevard - Topeka, KS 66603-3068
Phone: (785) 296-7413 - Fax: (785) 296-0852

2-4

~~isfactory to the board that the registrant is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402 and amendments thereto and has paid the annual premium surcharge as required by K.S.A. 40-3404 and amendments thereto.~~

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

~~(e)~~ *(d)* Any ~~registrant~~ *licensee* or certificate holder who allows the ~~registration~~ *license* or certificate to ~~lapse~~ *be canceled* by failing to renew may be reinstated upon recommendation of the ~~state~~ board ~~of healing arts and~~, upon payment of the ~~renewal fee and the~~ reinstatement fee and upon submitting evidence of satisfactory completion of any applicable reeducation and continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate reeducation and continuing education requirements for reinstatement of persons whose ~~registrations~~ *licenses* or certificates have ~~lapsed~~ *been canceled* for failure to renew.

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

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

Application fee, not more than	*$100*
Temporary permit fee, not more than	*40*
Renewal fee, not more than	*60*
Late renewal fee, not more than	*70*

a class B nonperson misdemeanor.

(b) Any person who, in any manner, represents oneself as a physical therapist assistant, or who uses in connection with such person's name the words or letters physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist assistant, without a valid existing certificate as a physical therapist assistant issued to such person pursuant to the provisions of this act, shall be guilty of a class B nonperson misdemeanor.

(c) ~~Nothing in this act shall prohibit any person not holding oneself out as a physical therapist or physical therapist assistant from carrying out as an independent practitioner, without prescription or supervision, the therapy or practice for which the person is qualified, and shall not prohibit the person from using corrective therapy. Nothing in this act shall prohibit any person who assists the physical therapist or physical therapist assistant from being designated as a physical therapy aide.~~ *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:*

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

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

(3) persons whose services are performed pursuant to the delegation of and under the supervision of a physical therapist who is licensed under this act;

(4) health care providers in the United States armed forces, public health services, federal facilities and coast guard or other military service when acting in the line of duty in this state;

(5) licensees under the healing arts act, and practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a ~~licensed physician~~ under subsection (g) of K.S.A. 65-2872 and amendments thereto;

~~_____~~ licensee

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

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

(8) health care providers who have been formally trained and are practicing in accordance with their training or have received specific

2-6

training in one or more functions included in this act pursuant to established educational protocols or both;

(9) students while in actual attendance in an accredited health care educational program and under the supervision of a qualified instructor;

(10) self-care by a patient or gratuitous care by a friend or family member;

(11) optometrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;

(12) podiatrists practicing their profession when licensed and practicing in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated and amendments thereto; and occupational therapy assistants

(13) occupational therapists practicing their profession when licensed and practicing in accordance with the occupational therapy practice act;

(14) respiratory therapists practicing their profession when licensed and practicing in accordance with the respiratory therapy practice act;

(15) physician assistants practicing their profession when licensed and practicing in accordance with the physician assistant licensure act;

(16) persons practicing corrective therapy in accordance with their training in corrective therapy;

(17) athletic trainers practicing their profession when registered and practicing in accordance with the athletic trainers registration act.

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

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

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

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

(c) A person certified under this act as a physical therapist assistant shall not treat ailments or other health conditions of human beings except under the direction of a physical therapist duly ~~registered~~ *licensed* under this act. The word "direction" as used in this subsection (c) shall mean that the physical therapist shall see all patients initially and evaluate them periodically except in those cases in a hospital setting when the physical

therapist is not immediately available, the physical therapist assistant may initiate patient care after telephone contact with the physical therapist for documented instruction. The physical therapist must then evaluate the patient and establish a plan of treatment as soon as possible with a minimum weekly review.

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

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

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

in the name of the state

(c) The board, in addition to any other penalty prescribed under the provisions of article 29 of chapter 65 of the Kansas statutes annotated and acts amendatory of the provisions thereof or supplemental thereto, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for a violation of the provisions of article 29 of chapter 65 of the Kansas statutes annotated and acts amendatory of the provisions thereof or supplemental thereto in an amount not to exceed $5,000 for the first violation, $10,000 for the second violation and $15,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

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

Sec. 14. K.S.A. 65-2919 is hereby amended to read as follows: 65-2919. Any person holding a valid ~~certificate~~ *registration* as a ~~physical therapy assistant~~ *physical therapist* immediately prior to the effective date of this act which has been issued by the ~~state~~ board ~~of healing arts~~ shall be deemed to be a ~~certified~~ *licensed* physical therapist ~~assistant~~ for the purposes of this act and article 29 of chapter 65 of the Kansas Statutes

2-8

Att. 3

KANSAS MEDICAL SOCIETY
KMS

623 SW 10th Avenue
Topeka KS 66612-1627
785.235.2383
800.332.0156
fax 785.235.5114

kmsonline.org

To: Senate Public Health and Welfare Committee

From: Christina Collins
Director of Government Affairs

Date: February 24, 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. Nonetheless, KMS does have one concern with the bill as written. The adoption of the proposed amendment would eliminate the Medical Society's concern and we would then be able to support the bill.

The physician members of the Kansas Medical Society have long supported and respected physical therapists. Not everyone who wishes to become a physical therapist may do so. 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 invaluable 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.

However, it is important to note that this licensure bill does more than simply substitute the term "licensure" for "registration" in the current physical therapy practice act. This bill eliminates the old practice act's scope of practice definition and replaces it with an entirely new one that is comprised mostly of model language from the American Physical Therapy Association. While KMS has no objection to the rest of the bill, one important point must be addressed. It concerns the definition of "practice of physical therapy" set forth on page two, line 7, which reads as follows:

Senate Public Health & Welfare Committee
Date: February 25, 2003
Attachment 9-1

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

Under long-debated but well-settled Kansas law, physical therapists begin treating a patient only after a physician has determined that patient's medical diagnosis or otherwise ruled out that the possibility that other forms of treatment besides physical therapy are appropriate for the patient. The language in the bill is confusing because it implies that physical therapists will arrive at a separate diagnosis that could be different from the diagnosis made by the referring physician. Our understanding is that physical therapists would treat based on the medical diagnosis of the referring physician. If this language implies that they may treat based on some other diagnosis, then the Kansas Medical Society simply cannot support it. Because this is misleading, we would support the elimination of this term from the definition. Inclusion of the word "diagnose" represents an important policy change that is distinct from the question before this committee today, namely to elevate the status of physical therapists from registrants to licensees of the Board of Healing Arts.

For the foregoing reason, we would respectfully urge the committee to adopt the attached amendment. If adopted, we would stand in support of the bill.

Thank you for the opportunity to present testimony on SB 225. I am pleased to stand for questions.

or describe oneself as a physical therapist, physiotherapist, ~~registered~~ *licensed* physical therapist, P.T., Ph. T., *M.P.T., D.P.T.* or ~~R.P.T.~~ *L.P.T.* Physical therapists may evaluate patients without physician referral but may initiate treatment only after consultation with and approval by a physician licensed to practice medicine and surgery, a licensed podiatrist or a licensed dentist in appropriately related cases.

(c) "Practice of physical therapy" means examining, evaluating and testing individuals with mechanical, physiological and developmental impairments, functional limitations and disabilities or other health and movement-related conditions in order to determine a ~~diagnosis for physical therapy,~~ prognosis, plan of therapeutic intervention and to assess the ongoing effects of physical therapy 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, and the practice of medicine and surgery.

delete

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

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

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

Sec. 2. K.S.A. 65-2903 is hereby amended to read as follows: 65-

To: Public Health and Welfare Committee Members
From: Pennie von Achen
Subject: Senate Bill #225
Date: February 23, 2003

As a patient who has found myself in need of physical therapy services on several occasions over the years, I urge you to support Senate Bill 225.

On more than one occasion I have sought medical attention from our community's leading orthopedic surgeons. These visits concerned joint problems of the spine and later the knee. Each time the physicians made generalized, generic, nonspecific diagnosis. In the case of my knee, the "diagnosis" was made without manipulating or even touching the affected knee. Nor were any questions asked about my symptoms, or what precipitated them. The only real benefit I derived from these visits was their referral to a Physical Therapist. Unlike the physicians, my Physical Therapist spends time with me at each visit discussing my symptoms, manipulating my knee to discern the real underlying cause of my pain, and defining my diagnosis as well as my recovery plan.

It has been my Physical Therapist, not the physician, who has pinpointed my specific problem. It has been my Physical Therapist, not the physician who has taken the time to look in depth at my problems.

Physical Therapists are recognized by the general public as health care professionals who have had extensive training and who have expertise in their field. In order to protect consumers from incompetent "pretenders", their profession should be protected against others who claim such expertise without the training.

I hope you will consider what is in the best interest of the general public by supporting Senate Bill 225.

Thank you,
Pennie von Achen
1346 East 2350 Road
Eudora, Kansas
66025

Senate Public Health & Welfare Committee
Date: February 25, 2003
Attachment 4-1

February 24, 2003

Dear Members of the Committee,

As Chair of the Physical Therapy Department at Wichita State University, I would like to make several comments about the education of physical therapists today in the state of Kansas. Both our program at Wichita State University (WSU) and the program at the University of Kansas Medical Center (KUMC) are fully accredited by the Commission on Accreditation of Physical Therapy Education. To gain such accreditation, each program much undergo stringent review and meet high standards. The current entry-level degree granted the new graduate by both WSU and KU is the Master's degree. Within two years, both programs hope to be offering the doctorate in physical therapy (DPT) as the entry-level degree.

As a member of various physical therapy faculties over the past twenty-five years (including both WSU and KUMC) I have watched the physical therapy profession make tremendous strides forward in knowledge and practice. Today's expectations for entry-level practitioners include the following:

- "Diagnose and manage movement dysfunction and enhance physical and functional abilities.
- Restore, maintain, and promote not only optimal physical function but optimal wellness and fitness and optimal quality of life as it relates to movement and health.
- Prevent the onset, symptoms, and progression of impairments, functional limitations, and disabilities that may result from diseases, disorders, conditions, or injuries." [*Guide to Physical Therapist Practice*, 2nd ed., American Physical Therapy Association, January 2001]

Students are taught to examine clients via a complete review of history, systems and performing various tests and measures. They make clinical judgments based upon their findings which results in a physical therapy diagnosis and prognosis. At any point of this process students learn to identify conditions for which referral to other healthcare providers is indicated, including the intervention phase. The increased educational standards are closely related to accountability for the physical therapist.

In the area of musculoskeletal examination, evaluation, and intervention it has been well established that physical therapists have extensive preparation and skill. In this program at WSU students spend 9 credit hours in musculoskeletal examination, evaluation, and interventions, not including the preliminary coursework in basic sciences which lays a solid foundation for their practice in this area. These courses emphasize the important knowledge and hands-on learning opportunities that are then further enhanced during full-time clinical affiliations, during which students practice their skills under the supervision of registered or licensed physical therapists.

Thank you for your positive consideration of SB 225.

Camilla M. Wilson, PT, PhD,
Associate Professor and Chair
Department of Physical Therapy
Wichita State University
1845 Fairmount
Wichita, KS 67260-0043
Camilla.Wilson@wichita.edu
316-978-5780

Session of 2003

SENATE BILL No. 151

By Committee on Public Health and Welfare

2-5

AN ACT concerning county hospitals; amending K.S.A. 19-4601 and repealing the existing section.

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

Section 1. K.S.A. 19-4601 is hereby amended to read as follows: 19-4601. As used in this act:

(a) "Board" means a hospital board which is selected in accordance with the provisions of this act and which is vested with the management and control of a county hospital;

(b) "commission" means the board of county commissioners of any county;

(c) "hospital" means a medical care facility as defined in K.S.A. 65-425 and amendments thereto and includes within its meaning any clinic, school of nursing, long-term care facility, limited care residential facility ~~and~~, child-care facility *and joint enterprises for the provision of health care services* operated in connection with the operation of the medical care facility.

(d) "hospital moneys" means, but is not limited to, moneys acquired through the issuance of bonds, the levy of taxes, the receipt of grants, donations, gifts, bequests, interest earned on investments authorized by this act and state or federal aid and from fees and charges for use of and services provided by the hospital.

(e) As used in this section, a "limited care residential facility" means a facility, other than an adult care home, in which there are separate apartment-style living areas, bedrooms, bathrooms and individual utilities and in which some health related services are available.

Sec. 2. K.S.A. 19-4601 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

and district

, 19-4608, 80-2501 and 80-2518 and repealing the existing sections

;

;

;

(f) "joint enterprises" means a business undertaking by a hospital and one or more public or private entities for the provision of health care services in which the hospital exercises majority control of the joint enterprise.

See Attached

, 19-4608, 80-2501 and 80-2518 are hereby repealed

Senate Public Health & Welfare Committee
Date: February 25, 2003
Attachment 5-1

Sec. 2. K.S.A. 19-4608 is hereby amended to ead as follows: 19-4608. (a) All hospital moneys, except moneys acquired through the issuance of revenue bonds, shall be paid to the treasurer of the board, shall be allocated to and accounted for in separate funds or accounts of the hospital, and shall be paid out only upon claims and warrants or warrant checks as provided in K.S.A. 10-801 to 10-806, inclusive, and K.S.A. 12-105a and 12-105b, and amendments to these statutes. The board may designate a person or persons to sign such claims and warrants or warrant checks.

(b) The board may accept any grants, donations, bequests or gifts to be used for hospital purposes and may accept federal and state aid. Such moneys shall be used in accordance with the terms of the grant, donation, bequest, gift or aid and if no terms are imposed in connection therewith such moneys may be used to provide additional funds for any improvement for which bonds have been issued or taxes levied.

(c) Hospital moneys shall be deemed public moneys and hospital moneys not immediately required for the purposes for which acquired may be invested in accordance with the provisions of K.S.A. 12-1675 and amendments thereto. Hospital moneys acquired through the receipt of grants, donations, bequests or gifts and deposited pursuant to the provisions of K.S.A. 12-1675 and amendments thereto need not be secured as required under K.S.A. 9-1402 and amendments thereto.

In addition, hospital moneys may be invested in joint enterprises for the provision of health care services as and to the extent permitted by subsection (c) of K.S.A. 19-4601 and amendments thereto.

(d) Hospital moneys which are deposited to the credit of funds and accounts which are not restricted to expenditure for specified purposes may be transferred to the general fund of the hospital and used for operation of the hospital or to a special fund for additional equipment and capital improvements or the hospital.

(e) The board shall keep and maintain complete financial records in a form consistent with generally accepted accounting principles, and such records shall be available for public inspection at any reasonable time.

(f) Notwithstanding subsections (a) to (e), inclusive, the board may transfer any moneys or property a hospital receives by donation, contribution, gift, devise or bequest to a Kansas not-for-profit corporation which meets each of the following requirements:

(1) The corporation is exempt from federal income taxation under the provisions of section 501(a) by reason of section 501(c)(3) of the internal revenue code of 1954, as amended;

(2) the corporation has been determined not to be a private foundation within the meaning of section 509(a)(1) of the internal revenue code of 1954, as amended; and

(3) the corporation has been organized for the purpose of the charitable support of health care, hospital and related services, including the support of ambulance, emergency medical care, first responder systems, medical and hospital staff recruitment, health education and training of the public and other related purposes.

(g) The board may transfer gifts under subsection (f) in such amounts and subject to such terms, conditions, restrictions and limitations as the board determines but only if the terms of the gift do not otherwise restrict the transfer. Before making any such transfer, the board shall determine that the amount of money or the property to be transferred is not required by the hospital to maintain its operations and meet its obligations. In addition, the board shall determine that the transfer is in the best interests of the hospital and the residents within the county the hospital has been organized to serve.

Sec. 3. K.S.A. 80-2501 is hereby amended to read as follows: 80-2501. As used in this act:

(a) "Board" means a hospital board which is selected in accordance with the provisions of this act and which is vested with the management and control of an existing hospital or a hospital established under the provisions of this act;

(b) "hospital" means a medical care facility as defined in K.S.A. 65-425 and amendments thereto and includes within its meaning any clinic, long-term care facility, limited care residential retirement facility, child-care facility and emergency medical or ambulance service operated in connection with the operation of the medical care facility;

(c) "hospital moneys" means, but is not limited to, moneys acquired through the issuance of bonds, the levy of taxes, the receipt of grants, donations, gifts, bequests, interest earned on investments authorized by this act and state or federal aid and from fees and charges for use of and services provided by the hospital;

(d) "existing hospital" means a hospital established under the provisions of article 21 of chapter 80 of Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto prior to the effective date of this act and being maintained and operated on the effective date of this act;

(e) "political subdivision" means a township, a city or a hospital district established under the provisions of article 21 of chapter 80 of Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto prior to the effective date of this act or established under this act;

(f) "qualified elector" means any person who has been a bona fide resident within the territory included in the taxing district of hospital for 30 days prior to the date of

, and joint enterprises for the provision of health care services operated in connection with the operation of the medical care facility

any annual meeting or election provided for in this act and who possesses the qualifications of an elector provided for in the laws governing general elections;

(g) As used in this section, a "limited care residential retirement facility" means a facility, other than an adult care home, in which there are separate apartment-style living areas, bedrooms, bathrooms and individual utilities; which facility is available only to individuals 55 years of age or older; and which facility has at least the following characteristics: (1) A common recreational and dining area; (2) planned recreation and social gatherings; (3) laundry facilities or services and housecleaning services; (4) special dietary programs providing at least one meal per day; (5) organized wellness programs; (6) a 24-hour emergency call system in each unit staffed by the hospital district; (7) a nursing staff from the hospital district on 24-hour call for residents; and (8) availability of additional health related services, laundry services, housekeeping, means for individuals with special or additional needs.

Sec. 4. K.S.A. 80-2518 is hereby amended to read as follows: 80-2518. (a) All hospital moneys, except moneys acquired through the issuance of revenue bonds, shall be paid to the treasurer of the board, shall be allocated to and accounted for in separate funds or accounts of the hospital, and shall be paid out only upon claims and warrants or warrant checks as provided in K.S.A. 10-801 to 10-806, inclusive, and K.S.A. 12-105a and 12-105b, and amendments to these statutes. The board may designate a person or persons to sign such claims and warrants or warrant checks.

(b) The board may accept any grants, donations, bequests or gifts to be used for hospital purposes and may accept federal and state aid. Such moneys shall be used in accordance with the terms of the grant,

(h) "joint enterprise" means a business undertaking by a hospital and one or more public or private entities for the provision of health care services in which the hospital exercises majority control of the joint enterprise.

donation, bequest, gift or aid and if no terms are imposed in connection therewith such moneys may be used to provide additional funds for any improvement for which bonds have been issued or taxes levied.

(c) Hospital moneys shall be deemed public moneys and hospital moneys not immediately required for the purposes for which acquired may be invested in accordance with the provisions of K.S.A. 12-1675 and amendments thereto. Hospital moneys acquired through the receipt of grants, donations, bequests or gifts and deposited pursuant to the provisions of K.S.A. 12-1675 and amendments thereto need not be secured as required under K.S.A. 9-1402 and amendments thereto.

In addition, hospital moneys may be invested in joint enterprises for the provision of health care services as and to the extent permitted by subsection (b) of K.S.A. 80-2501 and amendments thereto.

(d) Hospital moneys which are deposited to the credit of funds and accounts which are not restricted to expenditure for specified purposes may be transferred to the general fund of the hospital and used for operation of the hospital or to a special fund for additional equipment and capital improvements for the hospital.

(e) The board shall keep and maintain complete financial records in a form consistent with generally accepted accounting principles, and such records shall be available for public inspection at any reasonable time.

(f) Notwithstanding subsections (a) to (e), inclusive, the board may transfer any moneys or property a hospital receives by donation, contribution, gift, devise or bequest to a Kansas not-for-profit corporation which meets each of the following requirements:

(1) The corporation is exempt from federal income taxation under the provisions of section 501(a) by reason of section 501(c)(3) of the internal revenue code of 1954, as amended;

(2) the corporation has been determined not to be a private foundation within the

meaning of section 509(a)(1) of the internal venue code of 1954, as amended; and

(3) the corporation has been organized for the purpose of the charitable support of health care, hospital and related services, including the support of ambulance, emergency medical care, first responder systems, medical and hospital staff recruitment, health education and training of the public and other related purposes.

(g) The board may transfer gifts under subsection (f) in such amounts and subject to such terms, conditions, restrictions and limitations as the board determines but only if the terms of the gift do not otherwise restrict such transfer. Before making any such transfer, the board shall determine that the amount of money or the property to be transferred is not required by the hospital to maintain its operations and meet its obligations. In addition, the board shall determine that the transfer is in the best interests of the hospital and the residents within the district the hospital has been organized to serve.

March of Dimes
Saving babies, together

ESTABLISHING A

BIRTH DEFECTS INFORMATION SYSTEM

IN KANSAS

Testimony on behalf of the

March of Dimes

Before the Senate Committee on Public Health and Welfare

February 25, 2003

Presented by:

Norm Hess
Director of Program Services
March of Dimes Greater Kansas Chapter

Senate Public Health & Welfare Committee
Date: February 25, 2003
Attachment 6-1

My name is Norm Hess, and I am the Director of Program Services for the Greater Kansas Chapter of the March of Dimes. On behalf of the thousands of Kansas residents who volunteer their time on March of Dimes boards and committees, and at special events, I am here to express our support of Senate Bill 129, to authorize the establishment of a statewide birth defects information system.

Based on national estimates for year 2000 by the Centers for Disease Control and Prevention (CDC), roughly 1,200 - 1,500 babies were born in Kansas with a major birth defect. The CDC estimates that at least 20% - more than 50 babies - died in Kansas that year because of birth defects. Some of these conditions are visible at birth and are recorded on the birth certificate; others may not manifest symptoms for several months and are likely never reported to KDHE under the present reporting system.

To date, 35 states have entered into cooperative agreements with the CDC and have been awarded funding from the CDC to plan and implement birth defects information systems. These agreements have resulted in more timely and accurate birth defects data and have led to stronger, more coordinated systems of care for children and families.

In September 2003, another round of CDC funding will be awarded to states that are committed to enhancing their current birth defects information systems or establishing new systems, including pilot projects. Passage of authorizing legislation at this time will strengthen the state's position in applying for these funds.

The reporting of health-related information to the state health authority is a long-standing public health practice, and KDHE has proven its ability to handle sensitive information in a confidential manner. Senate Bill 129 contains appropriate measures to protect the confidentiality of children and families, including a provision for parents or guardians to have identifying information about their children removed from the system.

The March of Dimes staff and volunteers urge you to support Senate Bill 129 to benefit the families of children throughout the state who are born with major birth defects each year.

Norm Hess
March of Dimes Greater Kansas Chapter
4050 Pennsylvania, Suite 141
Kansas City, MO 64111
816-561-0175
nhess@marchofdimes.com

American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN™

Kansas Chapter

Chapter President
J. Edgar Rosales, MD, FAAP
737 E Crawford
Salina, KS 67401-5102
913/827-7261
Fax: 913/822-0388
E-mail: Rosalesmdaap@aol.com

Chapter Vice President
Jonathan Jantz, MD, FAAP
Wichita Clinic – Bethel
720 Medical Center Dr
Wichita, KS 67114-8778
316/283-8754
Fax: 316/283-5050
E-mail: jonjantz@southwind.net

Chapter Treasurer
Pam Shaw, MD, FAAP
Department of Pediatrics
3901 Rainbow Blvd
Kansas City, KS 66160-7330
913/588-5908
Fax: 913/588-6319
E-mail: pshaw@kumc.edu

Chapter Executive Director
Chris Steege
15202 W 84th Terrace
Lenexa, KS 66219-1810
913/894-5649
Fax: 913/894-5649
E-mail: kansasaap@aol.com

Website: **www.aapkansas.org**

February 19, 2003

Norm Hess
Director of Program Services/Public Affairs
March of Dimes
4050 Pennsylvania Ave Ste 141
Kansas City, MO 64111

Dear Mr. Hess:

The Kansas Chapter of the American Academy of Pediatrics supports Senate Bill No. 129 establishing a statewide birth defects information system. The Chapter feels this bill will provide a system of identifying and detecting birth defects in newborns and young children across Kansas.

Important points of this bill establishing a statewide birth defects information system in Kansas include:

- no appropriation of state funds is being requested at this time.
- passage of authorizing legislation will strengthen the state's position when applying for outside funding, such as cooperative agreement funds from the CDC.
- reporting health-related information to the state health department is a long-standing practice and is necessary to establish good public health policy.
- preventing birth defects can lead to tremendous savings in health care expenditures and in terms of human suffering.

The Kansas Chapter of AAP has reviewed this bill and feels it is a benefit to Kansas newborns.

Sincerely,

J. Edgar Rosales, MD, FAAP
President
Kansas Chapter of AAP

6-3

Testimony
Before the Senate Public Health and Welfare Committee
Tuesday, February 25, 2003

Provided by Angie Schreiber, Emporia, KS

Good afternoon Madame Chair and members of the committee. My name is Angie Schreiber and I am here in support of SB 129.

The birth of a child with birth defects is very traumatic for the parents and other family members. The divorce rate of parents with babies who have birth defects is reported to be about 80%. I believe many of the problems associated with this high rate are due to a lack of knowledge about the defect and lack of support from others with similar issues. The feeling of being alone with a baby who has a disability creates a burden many are unable to bear by themselves. SB 129 creates a registry through which information on birth defects is identified and maintained. If that registry had existed when our daughter was born, many of our worries could have been allayed.

Our daughter Gretchen was born 14 years ago at Wesley Medical Center in Wichita. The existence of her defect was not known until her birth. She was born with VATER Association. VATER is an acronym where each letter stands for the particular area of the body is affected…V for vertebrae, A for anus, TE for tracheo-esophageal and R for renal/radial. It is called an association because the occurrence of these defects together is statistically significant. The morning of her birth, the doctor who delivered Gretchen was only able to provide us a single paragraph in a medical book about VATERs. He was unable to say much more about the possibility of the existence of other babies in Kansas with the same condition. We were originally told probably only a handful of cases were seen each year in the state.

Through luck and determination we found over a dozen other families in the state with VATER kids. Still even after multiple surgeries at the Mayo Clinic in Rochester, Minnesota and quizzing their doctors about VATERs, we still wanted to connect with other families and sought to learn and share more information. That search led me to develop a nonprofit organization, The VATER Connection, and a website, www.vaterconnection.org, a few years ago. Since its inception, I have received e-mails from VATER families around the world seeking help. It is common, even in the United States, to receive e-mails from teenagers and adults who have VATERs and never knew they weren't alone. Their elation at finding someone who knows what they are going through can be felt through the miles of separation.

The creation of a statewide registry could help many families find that connection they need so desperately when faced with serious birth defects. SB 129 would benefit many Kansans by eliminating that loneliness which is so often felt. It would also benefit doctors who could seek treatment alternatives for rare conditions. Last spring I helped organize the first VATER Association Conference in the United States. Dr. Mira Irons, Chief of Genetics and Metabolism at Children's Hospital in Boston, provided statistics on

Senate Public Health & Welfare Committee
Date: February 25, 2003
Attachment 7-1

VATER from Spain's National Birth Registry, which helped emphasize how rare this condition is, in 1 1/2 million births only 56 babies with VATERs where born. How much more we could learn if all states had a registry.

In conclusion, I would like to suggest an amendment to the bill which would allow the parents of babies with birth defects to be able to access the other families with similar children. At the time of my daughter's birth I would have gladly consented to having someone contact me who had VATER's and most of the people I have talked with also have expressed the desire to meet and talk to another person or family who have faced these challenges. If consent is not provided then the person's information would be for statistical use only and confidentiality would be protected.

Thank you for your consideration of this bill. I would be glad to answer any questions at the appropriate time.

Christian Science Committee on Publication For Kansas

700 SW Jackson St., Suite 807
Topeka, Kansas 66603-3758
e-mail cscom@mindspring.com
Phone 785-233-7483
Fax 785-233-4182

February 25, 2003

To: Senate Committee on Public Health and Welfare

Re: Senate Bill No. 129

There are some parents and guardians in Kansas who for religious reasons object to the reporting and collecting of health information regarding to their family members. In order to accommodate their religious beliefs, I request that the following amendments be made to Senate Bill 129.

In Sec. 1. (c)(1), on page 1, line 36, after "...anomaly or abnormal condition.", add language to read:

> *The secretary shall not require a physician, hospital or freestanding birthing center to report to the system information as mentioned in this act if the child's parent or legal guardian objects in writing that such reporting conflicts with the parent's or guardian's religious beliefs.*

In Sec. 6. (E), on page 4, line 37, add language to read:

"...to have information regarding their children *not included in the system because the reporting would conflict with the parent's or guardian's religious beliefs* or removed from the system and a method of distributing the form to local health departments and to physicians. ...."

Thank you for considering this request.

Keith R Landis

Keith R. Landis
Committee on Publication
for Kansas

Senate Public Health + Welfare Committee
Date: February 25, 2003
Attachment 8-1