

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 1:30 p.m. on March 10, 2004 in Room 231-N of the Capitol.

All members were present except:

Senator Chris Steineger- excused  
Senator David Haley- excused  
Senator Pete Brungardt- excused

Committee staff present:

Ms. Emalene Correll, Legislative Research  
Mr. Norm Furse, Revisor of Statutes  
Mrs. Diana Lee, Revisor of Statutes  
Ms. Margaret Cianciarulo, Committee Secretary

Conferees appearing before the committee:

Mr. Ron Hein, Legislative Counsel, Kansas Society of Radiologic Technologists  
Mr. Jerry Slaughter, Executive Director, Kansas Medical Society  
Dr. James Owen, Diagnostic Radiologist and Councilor representing the state of Kansas to the Council of the American College of Radiology  
Mr. Doug Billings, B.A.R.T.®, C.N.M.T., FKSRT, Registered Technologist in Radiography and a Registered Nuclear Medicine Technologist  
Ms. Marla Rhoden, Director, Health Occupations Credentialing, Kansas Department of Health and Environment  
Ms. Rebecca Rice, Legislative Counsel, Kansas Chiropractic Association  
Ms. Deborah Stern, Vice President Clinical & Quality Services, Kansas Hospital Association  
Mr. Larry Buening, Executive Director, Board of Healing Arts

Others attending:

Please See Attached List.

**Hearing on Sub for HB2698 - an act providing for the regulation of licensing of radiologic technologists and x-ray technicians**

Upon calling the meeting to order, the Chair announced there would be a hearing on **Sub for HB2698**, an act providing for the regulation of licensing of radiologic technologists and x-ray technicians and asked Mr. Furse to give an overview of the bill. His highlights included:

- 1) Generally the bill relates to the regulation and licensing of radiologic technologists and x-ray operators and is basically in the format of most of our licensing laws, with some unique features;
- 2) The first section defines what the act is to be called the radiologic technologists practice act;
- 3) Sec.2 is the definition section and sets out the key definitions as used throughout the bill
- 4) Sec. 3 commencing on page 2, sets out the basic credentialing level and would envision a scope of practice protections as shown on lines 21 through 24 (“..no person shall perform radiologic technology procedures on humans for diagnostic or therapeutic purposes unless the person possesses a valid license issued under this act.”);
- 5) Sub section (b) provides a person holding a license under the act shall use radioactive substances or equipment for radiologic technology procedures on humans only for diagnostic or therapeutic purposes by prescription of a license practitioner;
- 6) Sub section (c) states no person shall hold oneself out basically either orally or in writing expressly by implication as a licensee in this act unless that person holds a current valid license under this act;
- 7) In this act, as with the traditional, for scope of practice act and protects the title, sub section (d) line 32 through 35, only persons licensed under the act may use certain abbreviations of terms along with their new title;

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8) Sec. 4, top of page 3, and all of these sections will be new to the law) provides quite a certain number of exemptions from provisions of the act (ex. Licensed practitioner, resident physician, health care providers, etc.) and again, traditional for the licensure act;

9) Sec. 5 relates to an applicant making application and sets out certain standards for the applicant (ex. Must be 18 years of age, completed secondary school or a high school education or equivalent thereof). Another application would be the payment of the fees.

10) At the bottom of page 3, top of page 4, a person could obtain a temporary license seeking to be licensed under the act;

11) Sub sec. ©) provides a sort of partial grandfather position here saying the Board may accept in lieu of its own licensure exam , a current certificate by a national association that the individual had passed an examination by that association;

12) Sub sec. (d) states that the Board may waive the examination, education or experience requirements and grant a license to an applicant that has proof of current licensure as a radiologic technologist in another state. (So there is a reciprocity provision in sub (d) of this bill.)

13) Sub sec. (e) provides that a person whose license has been revoked, may apply to have that license reinstated;

14) Sub sec. (f) provides that at least 30-days before the expiration of the license that Board will provide notice by mail that the license is going to expire;

15) Sub sec. (g) states if the licensee changes his/her address or name that he/she be required to notify the Board of this/these change(s);

16) Sec. 6 is basically a grandfather clause and more extensive than some, which provides:

A) A person who has been engaged in the practice for a period of 2 of the 3 years immediately proceeding July 1, 2005 and who is 18 years old and has successfully completed schooling;

B) A person who has been engaged in practice prior to July 1, 2005, has a current valid certificate by the national organization, plus the age and schooling as in (a); or

C) A third possibility, submits an avadavat from 2 of the following: hospital administrator, radiologist, or a licensed practitioner other than a radiologist attesting to the applicants competency in the practice of radiologic technology and again, the age and education as in (a);

17) Sec. 7 is one of the unique features of the bill providing that the Board of Healing Arts would maintain a registry of the persons who do not meet the requirements of the act of licensure, but who practice limited diagnostic radiography as an x-ray operator under the supervision of a licensed practitioner. These are people who are not licensed, but who perform this function under a practitioner who is licensed and this language would make it unlawful to function as an x-ray operator unless that person is licensed under the act or their name has been entered on this registry;

18) Sub sec. (b) is language that provides that the Board could not adopt rules and regs which may require continuing education for this group of unlicensed individuals;

19) Sub sec. ©) provides that no persons name would be entered on the registry of x-ray operators unless the person has been presented to the Board, an application and signed by the supervising practitioner or by the person designated by the hospital licensed;

20) Sub sec (d) provides, on page 5, that a person whose name appears on the registry, shall not be entitled to use the titles listed in Sec. 3. (This is a unique approach to sort of credentialing individuals.);

21) Sec. 8, page 6, establishes a radiologic technology council, again not unusual where a profession is commencing to being licensed regulated by the state, it would:

A) Consist of 5 members, the Board of Healing Arts appointing two and the Governor would appoint two members to the council;

B) Serve at the pleasure of the Board (the 2 members appointed by them) and at least two members appoint by the Governor from a list of 4 nominees submitted by the Kansas Society of Radiologic Technologists shall serve at the pleasure of the Governor;

22) Sub sec. (b) sets out terms that would not be consistent with the members serving at the pleasure of the appointing authority. (This would not be needed unless you want to set some terms out for the members who are appointed in which case "serving at the pleasure" needs to be taken out of Sub sec. (a) and would need to reconcile these two concepts;

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- 23) The balance of Sec. 8 talks about the provisions of the council;
- 24) In line 29, it appears that the reference here to the council meeting on the Chairperson's call or request of the majority members of the **Board**, and should be changed to "council";
- 25) Sec. 9 provides for the duties of the radiologic technologists council and has a number of "advises" to the Board (traditionally relating to examination fees and rules and regs, generally about the administration of the act;
- 26) Sec.10 sets out the powers and duties of the Board with advice and assistance of the council as to pass upon the qualifications of applicants, adopt rules and regs, establish standards for educational courses and professional conduct, and in lines 20 through 27, the language here would authorize the Board to set out the period of the length of time the license would be valid and the times for renewal;
- 27) Lines 32 through 36 relates to a license that has been suspended ("..shall not engage in any conduct or activity or violation of the order by which the license was suspended.." (And feels this language would be more appropriate on page 8, following line 42, which talks about the disciplinary actions the Board might take.);
- 28) Sec.11 set out fees for licensure and the application fee, and in this case would be \$200 for the radiologic technology examination;
- 29) On page 8, line 5 through 8, the language again states that if the exam is not given by the Board, but by a private examination service, that the fees would be paid to the examination service as directed by the Board. (This again is standard language.);
- 30) Sec. 12 states that a licensure of the rad tech may be limited, suspended, revoked, censured, remanded, or otherwise sanctioned. (This is the disciplinary section and sets out the grounds listed in 1 through 10 here for the discipline of a person who is licensed by the act and those on the register would be subject to these disciplinary sanctions. Then is where the insertion of the language on suspension, mentioned in Sec. 10, lines 32 through 36 would be more appropriate here, after line 42, rather than on the proceeding page.);
- 31) Sec. 13 provides objective authority to enjoin violations of the act;
- 32) Sec. 14 provides any monies collected under this act for fees would be deposited, after the 20% allocated to the state general fund, to the Healing Arts Fee Fund;
- 33) Sec. 15 - states a violation of the act would be a class B misdemeanor which is a sentence of up to 6 months in the city jail and a fine or both;
- 34) Sec .16 - the bill would become effective on the statute book, which raises a question with regard to when it should be effective, whether or not this would give the agency adequate time to prepare rules and regs. (Have had the same function in the past and generally the legislature has given a little more time (ex. 1-1 of the following year or in some cases May of that following year); and lastly,
- 35) This is a full licensure act with all the grounds, duties, and responsibilities and the advisory council that is being proposed.

Mr. Furse stood for questions and Senator Barnett asked as far as fees for the registry with the Board, have those been determined or is that to be determined at a later date and Senator Salmans asked if there are any graduated levels addressed in the bill (ex. Entry level and then full-licensure)?

The Chair then called upon the first of six proponents, Mr. Ron Hein, legislative counsel for the Kansas Society of Radiologic Technologists (KSRT) which is the Kansas Chapter of the American Society of Radiologic Technologists and the professional association for radiologic technologists in Kansas who are certified by the American Registry of Radiologic Technologists. He stated:

- 1) That Kansas is one of only 11 states that do not have some form of licensure for rad techs;
- 2) They amended the bill, in response to concerns raised in previous hearings in the House, to provide for an exemption from licensure Licensed Physicians Assistants, and Licenses Nurses working under the supervision of licensed practitioners as defined by the bill, or under the direction of a person designated by a licensed hospital;

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3) Their goals are two-fold: 1) to insure that patients are not mis-diagnosed because x-ray films are not of diagnostic quality; and 2) to insure patients are exposed to the least amount of man-made radiation possible over their lifetime; and lastly,

4) The state of Kansas requires licensure of the x-ray machines themselves and persons operating the machines for use on inanimate objects to the minimum education requirements and pass an exam, but requires no minimum education requirements for persons applying ionizing radiation on humans. A copy of his testimony is (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

The second proponent was Mr. Jerry Slaughter, Executive Director, Kansas Medical Society, who stated that the provision on page 5, Sec. 7, lines 15-43 was added at their request and is certainly not a perfect solution, creating a registry to provide some basic accountability and education without imposing significant regulatory costs and burdens on our rural practices and specifically designed to recognize that many small, rural medical practices would simply not be able to meet the requirement to employ a licensed rad tech. A copy of his testimony is (Attachment 2) attached hereto and incorporated into the Minutes as referenced.

Third, was Dr. James Owen, a diagnostic radiologist, and also past-President of KRS, and stated that they have previously gone on record in support of legislation to set minimum standards governing the quality of x-ray exams in Kansas (and that this legislation already exists in 37 other states). He also stated that most patients presume that their doctor oversees the quality of the x-ray, but with the exception primarily of radiologists, most physicians receive no training in x-ray image assessment, let alone x-ray generation, and not only are unable to give guidance to the radiographer, they are often unable to determine if the x-ray is even acceptable to interpret. He also offered opposing arguments and his responses to them, including:

1) (Oppose) this is unnecessary regulation & intrusion into a physician's or hospital's practice of medicine (response) find it incredible that one has to be licensed to cut hair in Kansas but not to expose a patient to radiation or determine whether or not they have a life-threatening condition;

2) (Oppose) there aren't enough rad tech's to replace people not qualified (response) this bill does not even require any training;

3) (Oppose) negatively impact small rural hospitals and practices (response) no one is being shut down because they don't have rad techs and 37 other states, including rural areas, already provide for more stringent regulation than this legislation making it a priority and found a way to make it work;

4) (Oppose) cost (response) the state would not have to incur any cost of developing and administering exams since there is already a nationally recognized process and cost of record-keeping should be born by those being certified, similar to other groups; and

5) (Oppose) dentists are exempted (response) dental radiography is limited to a single standardizes exam, limited exposure options using a machine that can be used for nothing else, and hygienists all receive appropriate radiographic education.

A copy of his testimony is (Attachment 3) attached hereto and incorporated into the Minutes as referenced.

The fourth proponent was Doug Billings, a registered technologist in radiography and a registered nuclear medicine technologist who stated taking an x-ray does not simply require placing a patient or body part on a table and pushing a button, not only are there are hundreds of specific positions to know to properly image a person with x-rays, you need to know how to make adjustments for different patients (ex. a newborn baby, an eighty-year old frail grandmother confined to a wheelchair, or a 450 pound man injured in an auto accident). He also offered examples representing over diagnosis based on poor quality exams. A copy of his testimony is (Attachment 4) attached hereto and incorporated into the Minutes as referenced.

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Next to testify was Ms. Marla Rhoden, Director, Health Occupations Credentialing, Kansas Department of Health and Environment (KDHE) who stated:

1) That KDHE is responsible for the administration of the Kansas Health Occupations Credentialing Act, the purpose of which is to review the public's need, according to statutory criteria, for a new health occupation to be credentialed in Kansas and that the rad techs have pursued licensure through the statutory established process;

2) The October, 1999 technical review committee found that the applicant group met all ten criteria outlined in the state;

3) The bill is similar to 2003 **HB2274** and the provisions are consistent with the technical review with a couple of additions:

A) The addition of the category of x-ray operator and credentialing at the level of registration, which was not addressed by the technical review but which is consistent with the concern for grand fathering in of current practitioners; and

B) Additional work outlining the composition of a rad tech council and fee structure.

A copy of her testimony is (Attachment 5) attached hereto and incorporated into the Minutes as referenced.

The final proponent was Ms. Rebecca Rice, Legislative Counsel, Kansas Chiropractic Association who stated that because most chiropractic offices will only be affected by the sections regarding registered technicians, they have no comment regarding the licensing provisions. She also stated that chiropractors continue to use radiology as a primary diagnostic tool and that while reviewing the categories of studies for the House Health committee last year, Dr. Tom Nichols, Chairman of Diagnostic Sciences at Cleveland Chiropractics College, told the committee that during the three-semester-per-year four year program, Cleveland College requires 18.5 credit/semester hours (360 clock/contact hours) of radiology study. A copy of her testimony is (Attachment 6) attached hereto and incorporated into the Minutes as referenced.

The Chair then called on the first of two neutral conferees, Ms. Deborah Stern, Vice President Clinical & Quality Services, Kansas Hospital Association (KHA), who stated they had recently conducted a member survey that identified workforce shortages as one of the most critical problems facing hospitals in Kansas and included a map showing 2002 regional vacancy rates for rad techs in Kansas. She stated current Kansas hospital regulations require that the personnel working in a hospital radiology department must be qualified for the type of service performed and current federal regulations state that in hospitals, only personnel designated by the medical staff may use the radiologic equipment and administer procedures. Lastly, she stated that the legislature must recognize the current worker shortage and provide for some flexibility in the law. A copy of her testimony and attachment are (Attachment 7) attached hereto and incorporated into the Minutes as referenced.

The second neutral conferee was Mr. Larry Buening, Executive Director, Kansas Board of Healing Arts, who stated the purpose of the Board is to regulate approximately 17,500 individuals that provide health care in 13 health care professions. He offered findings of the October, 1999 technical committee and a history of the bill that is in its fourth consecutive year of being introduced in the legislature to regulate rad techs and offered suggested amendments, attached, to the Substitute Bill that should enable the Board to provide for the regulation of rad techs. He states that Section of the bill, regarding a registry of what will be known as "x-ray operator" but: no application is required, no fee allowed, no renewal process is provided, no grounds for denying a license, and if they cease to be supervised, there are no provisions for removing their name from the registry, so the Board is looking for some direction of what is expected of them in the creation and maintenance of this registry. And lastly, he stated that the Board asks that the Committee consider what public policy is advanced by the enactment of this legislation as:

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1) it would impose upon those rad techs who have appropriate education & training to heed to obtain a license from the Board and comply with all the requirements that may be established to maintain that license; and on the other hand,

2) licensed practitioners and hospitals would still be allowed to delegate radiography to anyone of their choosing, the only difference is they would have to submit the x-ray operators name for the registry.

A copy of his testimony and his amendment is (Attachment 8) attached hereto and incorporated into the Minutes as referenced.

Written testimony was offered as follows:

1) Mr. Wayne Probasco, Executive secretary, Kansas Podiatric Medical Association, who stated his association has no objection to its passage.

2) Dr. James Kilmartin, Director of Medical Imaging Services, Stormont-Vail HealthCare, who believes the original intent of the bill has been lost after 5 years of consideration and stated that it does not change the use of but allows for status quo of ionizing radiation or improve the quality care to Kansas residents receive.

3) Mr. David Saidian, Certified Nuclear Medicine Technologist, Lime Medical, Wichita Kansas who stated he opposes the bill because: nuclear med techs are required to work under a physician's supervision; already regulated, and hardships on small clinics and hospitals;

4) Ms. Linda Croucher, Radiologic Technologist, Kansas Society of Radiologic Technologists, offered three main points that demonstrate the necessity of credentialing;

A) Patient safety - ionizing radiation can damage cells as it passes thru the body;

B) Enhanced Quality - in addition to realizing that a radiograph needs to be repeated, the tech must understand how to correct the error;

C) Healthcare cost reductions - it is estimated that nearly half of the American population will have a radiographic exam in a given year, so it is imperative to keep exposure as low as possible; and,

5) Mr. Randy Stucky, Executive Board member & Legislative Chair, KSRT, who offered a history and results of the task force formed by the Department of Health and Human Services, formed by President Jimmy Carter.

A copy of these written testimonies is (Attachment 9) attached hereto and incorporated into the Minutes as referenced.

The Chair then asked for questions or comments from the Committee. Senators Barnett, Salmans, Brungardt, and Wagle asked a range of questions for Mr. Hein, Mr. Slaughter, and Mr. Buening ranging from: historically speaking, when you first introduced this bill you didn't offer the registry concept, is this correct, are you saying (Mr. Slaughter) don't support this legislation without something like this, could the council that is created provide some of the information Mr. Buening requested in his testimony (ex. Asking for something in the future to give you guidelines), clarification regarding written testimony: are nuclear medicine technologists not affected by the bill, isn't the bill broad enough for rules and regs, without this bill, why are they writing down names that are exempt from the act?

The Chair then asked for a sense from the Committee, without working the bill, if you want to move forward and try to work this out. Senator Barnett feels there is reason to go ahead with the licensure and patient safety issues but would like more conversation with Mr. Buening, Mr. Hein, and Mr. Slaughter to see if they can address some of his concerns quickly. Senator Salmans stated that since the protection of the rural areas has been addressed, he felt it okay to move forward.

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The Chair asked Mr. Mr. Furse to work on some technical changes, and to clarify, since the amendments Mr. Buening proposed did not deal with this extra registration he is saying he is conceptually opposed to that and the medical society doesn't support it without it. She asked that they all keep their minds open and they would see what happens in the next few days as discussions continue. She then closed the hearing.

### **Adjournment**

As there was no further business, the meeting was adjourned. The time was 2:31 p.m.

The next meeting is scheduled for Thursday, March 11, 2004.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

28 present

GUEST LIST

DATE: Wednesday, March 10, 2004

NAME	REPRESENTING
Marla Rhoden	KDHE
Wayne Prokasko	K P m A
Carolyn Muddendof	Ks St No Care
KEVIN ROBERTSON	KS DENTAL ASSN
Chip Wheelen	Assn of Osteopathic Medicine
Mary Hillebrandt	Conlee Consulting
Lindsay Campbell	Intern
Deag Billings	Kansas Society of Radiologic Technologists
Rinda (Trucker)	"
Mike Hein	KSRT
Dr James Owen	KRS
D. D. Duto	KAFP
Mark Stafford	BOHA
FRAN SAUTTER	KNS
DEBORAH STEIN	KMA
LARRY BUENING.	BD OF HEALTH & ARTS
Ron Hein	Ks Society of Radiologic Technologists
Rebecca Fin	KCA
Roug Smith	KAPA

28 present



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Ronald R. Hein  
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**Testimony re: Sub. HB 2698**  
**Senate Public Health and Welfare Committee**  
**Presented by Ronald R. Hein**  
**on behalf of**  
**Kansas Society of Radiologic Technologists**  
**March 10, 2004**

Madam Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Society of Radiologic Technologists. The KSRT is the Kansas Chapter of the American Society of Radiologic Technologists and is the professional association for radiologic technologists in Kansas who are certified by the American Registry of Radiologic Technologists.

Sub. HB 2698 provides for licensure of radiologic technologists who meet certain minimum educational and examination requirements. Radiologic technology is the use of radioactive substance or equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes upon prescription of a licensed practitioner in Kansas. Radiologic technologists include radiographers, who use radiation for diagnostic purposes; radiation therapists, who use radiation for therapeutic purposes; and nuclear medicine technologists, who are using radio nuclides for diagnostic or therapeutic purposes.

The rad techs, as I shall refer to them, were approved for licensure by the Credentialing Technical Committee and by the Secretary of KDHE pursuant to K.S.A.65-5001, *et. seq.*, the Health Occupations Credentialing Act. Kansas is one of only 11 states that do not have some form of licensure for radiologic technologists.

In response to concerns raised in previous hearings in the House of Representatives, we amended the bill to provide for an exemption from licensure Licensed Physicians Assistants and Licensed Nurses working under the supervision of licensed practitioners, as defined in the bill, or under the direction of a person designated by a licensed hospital. The bill provides that the Board of Healing Arts may promulgate regulations to assure that persons exempted from licensure pursuant to this provision receive continuing education consistent with their practice.

The bill also requires persons who do not meet the PA or nurse exemption requirement to be listed on a registry administered by the Board of Healing Arts. If these persons are listed on the registry, they are exempt from licensure. They also are subject to requirements for continuing education.

Senate Public Health & Welfare Committee  
Attachment 1  
Date: March 10, 2004

House Health and Human Services Committee  
March 10, 2004  
HB 2698

To arrive at a compromise on this legislation, we have worked with the Kansas Board of Healing Arts, Kansas Association of Osteopathic Medicine, Kansas Dental Assistants Association, Kansas Dental Association, Kansas Dental Hygienists Association, Kansas Hospital Association, Kansas Medical Society, Kansas State Nurses Association, Kansas Academy of Physician Assistants, and the Kansas Podiatric Medicine Association.

We received considerable feedback from these groups, several of whom opposed the first version of our bill draft, and as a result, we made numerous modifications to the bill to result in Sub. HB 2698. The agreement we have reached with the other involved provider groups will meet these educational goals with minimal if any cost or burden to any individual or any provider.

The motivation of this legislation all along has been to improve the education of persons who administer ionizing radiation on patients. Our goals are two-fold: 1) to insure that patients are not mis-diagnosed because x-ray films are not of diagnostic quality; and 2) to insure patients are exposed to the least amount of man-made radiation possible over their lifetime.

In short, our goal has been public and patient safety through education. As related by other conferees, there is a problem in this state because of non-diagnostic quality x-rays by untrained persons. The way to solve that problem is not to eliminate those people or their jobs, but to educate them so they can do their jobs as competently as possible.

The state of Kansas requires licensure of the x-ray machines themselves. Ironically, the state also requires persons operating x-ray machines for use on inanimate objects to meet minimum education requirements and to pass an examination. But the state currently requires no minimum education requirements for persons applying ionizing radiation on humans.


We very much appreciate the efforts of the other providers to meet with us and to craft this compromise legislation.

We have reviewed amendments which will be offered by the Board of Healing Arts to have this bill conform more to the procedural language necessary for the Board to carry out the responsibilities of this legislation. We are in agreement with those amendments provided that the other groups with whom we have reached agreement are satisfied that these procedural changes do not conflict with the compromise that we crafted in the House.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.



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**To:** Senate Public Health and Welfare Committee  
**From:** Jerry Slaughter  
Executive Director   
**Date:** March 10, 2004  
**Subject:** HB 2698; concerning licensure of radiologic technologists

The Kansas Medical Society appreciates the opportunity to appear today on Substitute for HB 2698, which would create a licensing act for radiologic technologists. We support the substitute bill as it was passed in the House.

Enactment of this bill will make it illegal for anyone other than a licensed radiologic technologist to operate an x-ray machine for diagnostic or therapeutic purposes. The only exceptions are for licensees of the healing arts board (physicians, chiropractors, podiatrists) when they personally provide the service, students, health care providers in the armed services, and dentists, dental hygienists and dental assistants, and physician assistants and nurses working under the supervision of a physician (page 3, sec.4, lines 3-27). Additionally, a "licensed practitioner" as defined in the act can employ an unlicensed person to perform basic diagnostic x-rays so long as they notify the Healing Arts Board and enter that person's name on the registry which is created in the bill (page 5, sec.7, lines 15-43).

This last provision was added at our request, and it certainly is not a perfect solution. It creates a relatively unfamiliar vehicle, a registry, to provide some basic accountability and education without imposing significant regulatory costs and burdens on our rural practices. It was specifically designed to recognize that many small, rural medical practices would simply not be able to meet the requirement to employ a licensed radiologic technologist. First, there is not an overabundance of radiologic technologists available, and many small, rural physician offices would find it extremely difficult to find and employ a licensed individual. Second, in many physician practices it is necessary to have employees cross-trained to provide a wide range of services such as basic diagnostic laboratory and x-ray services, as well as other patient care services, all under the direction and supervision of a physician. Requiring every office in which x-rays are provided to employ fulltime a licensed or registered radiologic technologist would be costly, impractical, and not possible, particularly in rural areas. By imposing this requirement on rural physician practices, the legislature would have made it more difficult for those practices to be viable, and we already have serious problems attracting and keeping physicians in rural Kansas.

*Senate Public Health & Welfare Committee  
Attachment 2  
Date: March 10, 2004*

During the two years this bill has been in front of the legislature there has been quite a bit of talk about the issues of quality, patient safety and responsibility for care that is delivered. We feel just as strongly about those issues as do the proponents of the bill. And, at the end of the day, it is the responsibility of every physician to assure that persons working under their supervision are properly trained to carry out functions delegated to them. In fact, the healing arts act is very clear about the responsibility of a licensee in this regard. A licensee of the board can be disciplined for unprofessional conduct under KSA 65-2837(b), for

- (26) Delegating professional responsibilities to a person when the licensee knows or has reason to know that such person is not qualified by training, experience or licensure to perform them; and
- (30) Failing to properly supervise, direct or delegate acts which constitute the healing arts to persons who perform professional services pursuant to such licensee's direction, supervision, order, referral, delegation or practice protocols.

We feel that Substitute for HB 2698 strikes a workable balance that will take important steps which reinforce quality without adding administrative complexity, cost and hassle to the very practices that are least able to absorb the burden of additional government regulations and requirements.

We support the bill and urge you to report it favorably. Thank you for the opportunity to offer these comments.

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Testimony to the Senate Public Health and Welfare Committee  
March 10, 2004  
Re: Sub. HB 2698

Madam Chairman and Members of the Committee,

I am Dr. James Owen. I am a diagnostic radiologist—a member of the medical specialty that deals with x-rays and other forms of diagnostic imaging. I am a Fellow of the American College of Radiology, past President of the Kansas Radiological Society and the Councilor representing the state of Kansas to the Council of the American College of Radiology. I am speaking today representing the KRS, which has previously gone on record in support of legislation to set minimum standards governing the quality of x-ray exams in Kansas. Such legislation already exists in thirty-seven other states. Both the KRS and the ACR have a long history of support for quality standards in patient care. The ACR, for example, spearheaded the Mammography Quality Standards Act, which has become the premier example of how standards can be used to improve quality of care. I should preface my remarks by saying that, in general, I am opposed to excessive government regulation and intervention. That should only take place when absolutely necessary to safeguard the public. I believe that the performance of x-ray exams is such a case.

I would like to provide a little background information. There are three components to an x-ray procedure: 1) the equipment, 2) the generation of the x-ray itself and its recording on film, and 3) its professional interpretation. Two of these are already regulated. Equipment, by statute, is supposed to be monitored by the KDHE and is not addressed by this bill. The professional interpretation is rendered by a physician. Again, by statute, any licensed physician can provide that interpretation and they are under the regulation of the Board of Healing Arts. The actual generation of the exam is the one area with no oversight whatsoever and no standards. Consequently, it is subject to the highest variability.

Is this a problem? We believe that it is a substantial problem. First of all, the quality of x-ray images is perhaps the single most variable “product” in healthcare in Kansas. That is largely a reflection of the training, knowledge and capabilities of the person generating the images. Most patients presume that the person taking their x-ray knows what he or she is doing. In a great many cases, nothing could be further from the truth. They also presume that their doctor oversees the quality. Again, with the exception primarily of radiologists, most physicians receive no training in x-ray image assessment, let alone x-ray generation, and not only are unable to give guidance to the radiographer, they are often unable to determine if

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the x-ray is even acceptable to interpret. This bill's opponents would argue that anyone should be able to take x-rays under the supervision of ANY licensed practitioner. I am a radiologist with four years of specialty training and twenty years of experience and I don't believe for one minute that I'm qualified to directly supervise a radiographer without substantial basic training. If I'm not, how can other physicians with no training feel qualified?

What problems does this create? There are primarily three: 1) generation of x-rays that are technically inadequate to render a diagnosis, 2) unnecessary radiation exposure to the patient and 3) cost. Poor quality radiographs can make it difficult, if not impossible, to make a diagnosis even in the best of hands. The likelihood of missing a lung cancer on a chest x-ray, for example, goes way up as the quality of the x-ray goes down. My practice, based here in Topeka, interprets x-rays for some forty different locations across northeast and east central Kansas. We have, over the years, been asked by numerous other sites to provide professional interpretations for their exams, and, after an initial assessment, have declined to do so because the films were of such poor quality as to render them, in our opinion, uninterpretable. Those exams are still being performed; they're just not being read by us. This is also not an urban vs. rural issue – we see just as many poor quality images generated around Topeka, Wichita and Kansas City as in rural areas of the state.

Not only does this create problems in initial diagnosis, it also leads to unnecessary additional exams such as the technically inadequate chest x-ray that leads to an unnecessary CAT scan to prove that there is nothing wrong, or the person admitted to the hospital who, as a first step, has to have his basic x-rays repeated so we know where to start in his evaluation. There is, therefore, also a financial cost to this, with which the state, as the administrator of Medicaid, should be fiscally concerned.

Regarding unnecessary radiation exposure, this has two sources. First, patients get excess radiation when the radiographer fails to collimate, or limit, the exposure to just the area in question, and fails to use the proper technique. Second, it occurs when films have to be repeated because they were badly exposed. This happens to all techs occasionally, for a variety of reasons, but it is a bigger problem when the person with his finger on the button has no training. I am aware, for example, of an instance in Topeka in which a child had his face radiated twelve times before the untrained radiographer finally quit trying to get a satisfactory exam of his sinuses. This, to me, is unacceptable.

Who takes x-rays now? This is a picture of extremes. On the one hand are radiologic technologists (R.T.s), persons who have completed two years of classroom and practical training followed by a national board examination. At the opposite extreme could be, quite literally, ANYONE else. In one practice near

Topeka of which we are aware, the x-rays were taken by a girl whose last job was scooping ice cream at Dairy Queen. Her training consisted of being told to "press the button". She had no idea of how to vary the exposure, let alone correct a problem. It turned out her films were coming out black because she didn't know the chemicals in the processor needed to be changed monthly (she had never changed them) and that the temperature of the developer was critical (she had no thermometer). Her solution to try to get an x-ray was to just crank up the voltage. It is this sort of situation that we wish to correct.

What do radiographers really need to know? Many people mistakenly believe that it truly is a "push the button" business. There is a long list of technical parameters of which the radiographer needs to be aware and deal with on every x-ray he or she takes. The process is easiest at the largest hospitals and offices where they can afford more modern and semi-automated equipment. Ironically, that is also where the best-trained radiographers are.

It is our opinion that this is a problem worthy of correction, and one which could be addressed fairly easily by requiring a minimum amount of training and accountability. A stronger bill, proposing exactly that, was considered and rejected by a House committee last year. The current proposed legislation is substantially reduced in scope and effectiveness, but represents an initial attempt to address the issue. Opposing arguments and my responses to them were as follows:

- 1) This is unnecessary regulation and intrusion into a physician's or hospital's practice of medicine.

As I indicated, I too am opposed to unnecessary regulation. Hopefully, you see why I believe that this is truly needed. Personally, I find it incredible that one has to be licensed to cut hair in Kansas, but not to expose a patient to radiation or determine whether or not they have a life-threatening condition. I find it incredible that one has to be licensed to x-ray a pipeline in Kansas, but not a person.

- 2) There aren't enough RTs to replace people not qualified.

It is true there is a shortage of RTs right now. Ideally, everyone taking x-rays would be an RT, but that is simply not practical at the moment. There are however alternatives, which this legislation amply provides for. This bill does not, in fact, even require any training. It provides for a mere registration process so that BOHA can at least be aware of who is performing limited radiography but is not trained to the extent necessary to

obtain licensure. Finally, I believe in a free market economy. If there is a demand for trained technologists, more people will seek training.

3) This will negatively impact small rural hospitals and practices.

Again, no one is being shut down because they don't have R.T.s. Registration would permit BOHA to track persons who are untrained and to attempt to increase their education and competency. Thirty-seven other states, including rural states, already provide for much more stringent regulation than this legislation provides for by requiring radiographer licensure. Clearly they have made it a priority and found a way to make it work. That number should also make it clear that we are in a distinct minority in our failure to safeguard patients through proper training. One should also consider that it might be possible that bad radiography is worse than none at all.

4) Cost.

The state would not have to incur any cost of developing and administering exams, should BOHA choose to use them in the future, since there is already a nationally recognized process through the ARRT, which itself provides for a limited licensure option. Costs of record-keeping should be born by those being certified, similar to other groups. The program would be under the Board of Healing Arts, so the infrastructure is already in place.

5) Dentists are exempted.

Frankly, it doesn't matter to me whether or not they are exempt, and I doubt it would matter to them. This legislation was designed to address a need. Dental radiography is limited to a single standardized exam, with limited exposure options using a machine that can be used for nothing else, and dental hygienists all receive appropriate radiographic education in their training programs. My personal perception is that there is not a problem with them.

6) This interferes with physician autonomy and we know what's appropriate.

As I indicated earlier, most physicians have no training in radiographic quality assessment. In addition, every other aspect of their practice has



oversight. Furthermore, there are worse things than state regulation. Previously, states failed to adequately monitor clinical laboratory work in physician's offices. The result was CLIA – federal legislation that essentially shut down most office laboratory work completely amid a mountain of regulatory requirements. Personally, I would prefer to see regulation be done at the local level.

Over the last few months, the issues involved in last year's bill were discussed with several of the organizations that had opposed it. What you see before you for your consideration now is a proposal substantially reduced in its scope. While it is certainly not the legislation we would like to see enacted, it hopefully addresses most of the concerns of previous opponents, and would still represent an improvement over our present system and a good first start toward safeguarding our patients.

Hopefully, I have made it clear that there is a quality problem in Kansas related to radiographers and that citizens are being harmed as a result. Our role as physicians is to be advocates for our patients. That should also be the goal of the legislature and the state regulatory environment. The desire of the Kansas Radiological Society is to do what we can to improve patient care and ensure safe, diagnostic studies for the people of Kansas. We believe this legislation would represent a good first step toward that goal. Thank you for your attention and consideration.

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Testimony:

Senate Public Health and Welfare Committee.  
Kansas Society of Radiologic Technologists  
March 10, 2004

From: Doug Billings, B.A. R.T. ( R ), C.N.M.T, FKSRT  
Past-President Kansas Society of Radiologic Technologists  
Nuclear Medicine Technologist-Lawrence, Kansas

Re: Sub. HB 2698

Madam Chairman and Members of the Committee:

I am Doug Billings. I am a Registered Technologist in Radiography and a Registered Nuclear Medicine Technologist. I am a Past-President of the Kansas Society of Radiologic Technologists and a member of the American Society of Radiologic Technologists, Kansas Society of Radiologic Technologists, Society of Nuclear Medicine and the American Society of Nuclear Cardiology. I have been in the profession for nearly 22 years. During my twenty plus years, I have always been involved by doing what I can to better myself as well as my profession. I have spoke previously in Reference Committee Hearings and before the House Committee on Health and Human Services on a number of facts, statistics and studies concerning radiation and health concerns. I would be willing to discuss those concerns with anyone who may be interested at another time. I come before you today to speak about some areas of concern for the people we serve.

Over the last two years alone I have documented over one hundred ten hours of continuing education. The documented hours do not include the countless journal articles and Internet articles I have read to keep up with my profession. Medicine and radiology in particular, are very dynamic. Therefore it is important for technologists to continue to educate themselves about their profession. Registered Technologists are required by their license to acquire a minimum 24 hours of continuing education over a two-year period. Continuing education helps to develop technologists' skills and keep them aware of what is going on in the profession. The continuing education requirements are above and beyond the two years of education and clinical experience required to take the national boards for Radiologic Technology.

Taking an x-ray does not simply require placing a patient or body part on a table and pushing a button. It is so much more. There are hundreds of specific positions a technologist must know to properly image a person with x-rays. In addition to the number of positions, a technologist must also know how to make adjustments for different patients. A newborn baby, an eighty-year-old, frail grandmother confined to a wheelchair or a four hundred fifty pound man injured in an auto accident all require different imaging factors. These are not easy adjustments to make. Proper training is essential. All three of these patients would require a multitude of different positions, adjustments and radiation exposure settings. A technologist would not use the same settings to image all three. Believe it or not, an unqualified person taking an x-ray, in most cases, would. I know this for a fact.

I contacted a number of small rural hospitals in western Kansas during the Technical Committee Review. Most of the facilities I contacted had lab technicians performing the x-ray

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examinations. Several of the lab technicians that I spoke to did not feel comfortable taking x-rays. One person I spoke to told me, "I would rather not be doing x-rays. I am too busy doing lab and there are thirty others here just as qualified as me to take x-rays." He also told me they have interviewed eight prospective lab directors but have been unsuccessful due to the x-ray part of the position. Another hospital I called had four lab technicians that also performed the x-ray examinations. The lead lab technician told me he preferred not to be taking x-rays since he really didn't know anything about it. He also told me he did not like to do fluoro (fluoroscopic x-rays) due to concerns with it. One facility I spoke to had three people who had been trained only within the office. This is not necessarily bad, but the person I spoke to felt they should know more about what they were doing. They typically open the systems wide open and shoot. If it doesn't turn out right, they make some adjustments and shoot another x-ray. They continue doing so until something turns out. This is not acceptable. Where is the concern for the safety and rights of the patient? How can a dollar value be placed on these patients' health and safety?

I do a variety of nuclear medicine procedures. One procedure I do frequently is called a bone scan. We inject a patient with a radioactive medication and allow it time to accumulate in the bones. After a few hours, we image the body to look for abnormal areas of accumulation of the radioactive drug. The procedure is very expensive and yields metabolic information about the bones. It is used to aid in the diagnosis or staging of cancers, fractures, arthritic changes, infection and unexplained bone pain. With a little background on bone scans, I want to tell you about a conversation I had with a licensed practitioner last year. The licensed practitioner called to schedule a bone scan. I spoke with him about getting the patient in the next day for the bone scan. We routinely request the patient bring any outside films for comparative purposes. If there is an area of suspicion the radiologist will correlate the data from the bone scan with the x-ray. I made the request to the licensed practitioner to send the patients x-rays to us. He replied they probably would not be helpful. I told him the Radiologist who would be interpreting the study would prefer to have them to aid in the interpretation if at all possible. He then replied he was a little bit embarrassed. He said the x-rays were so bad you really could not see anything on the film because they were so dark. He then said he would be willing to add an x-ray to the order for the bone scan and we could get them at the same time. I would like to make a few points: 1) the original was terribly overexposed meaning the patient received at the very least double the exposure of radiation; 2) the patient was unaware the x-ray taken in the office was worthless; 3) the repeat x-ray at the hospital required additional radiation exposure and cost; and, 4) a good initial x-ray may not have required a very expensive bone scan. We see several cases exactly like this each month. We are one site in Kansas. Imagine, if you will, the number of times this happens across the State of Kansas each week.

I had another case several years ago when I was covering CAT scan call. I was called on a Saturday morning to do a STAT chest CT on a man in his late thirties. When I arrived in the Radiology Department the man and his wife were in the waiting room crying. The man had been told it looked like he had lung cancer. I asked the gentleman if I could review his chest x-rays before I took him back for his CT. I then went to our review area and hung his films up on the viewing box. The chest x-ray was unbelievable. It showed fluffy infiltrates throughout both lung fields. These by themselves certainly were cause for concern. However, the fluffy infiltrates extended into the shoulders, neck and outside the body. I asked the gentleman if he would mind letting me take another chest x-ray. The chest x-ray I took showed perfectly normal lungs. The patient was very upset at all he had gone through because of a

terrible chest x-ray. The office manager reportedly took the chest x-ray. It had a number of problems. There was no identification to show it was even this patient's x-ray. The film was overexposed, the chemicals for processing were old creating the false abnormalities, there were scratches all over both films, the patient's chin was included in the film and a variety of other issues. This is not an isolated occurrence. We also see an unbelievable number of cases very similar to this.

We had another patient last year that was told she had a big lung tumor. She was sent in for a chest CT. Our registered CT technologist reviewed her x-rays and realized the office person who took her x-rays did not have the patient remove her bra. The mass shown on the x-rays was a breast prosthesis in her bra due to a prior mastectomy. This patient drove from out of town to see how bad her lung tumor was. We also repeated her chest x-ray to show it was normal. She had at least twice the x-rays, unnecessary concern, increased cost and had to drive for an appointment out of town she did not need. I certainly understand these are just a few examples. I actually have more stories and films than you could possibly imagine. These cases are not isolated. They occur on a weekly basis all across our state.

These examples each represent over diagnosis based on poor quality exams. Imagine for a moment the number of disease processes and cancers missed for the same reasons. The next time you visit your physician for an annual physical will you wonder if your chest x-ray is truly okay? Maybe it was over or under-exposed. Maybe as a result you have a small lesion that will continue to grow beyond a treatable state. If the original x-ray had been properly performed, maybe you would have another ten to twenty years of life rather than only one. We see a number of cases every year that are sad and preventable. There must be a means for requiring people taking x-rays in Kansas to be properly qualified. I cannot imagine how the facts can continue to be ignored. It is up to you, the committee, to make an appropriate decision for not only the health and safety of the people you represent, but also for yourselves.

Please, if you have any doubts about this bill, review the data I have supplied in previous hearings. The facts are very real. We have supplied everything requested and have worked diligently to address concerns of our opponents to this bill. Many concessions have been made to try to accomplish our goals. Our sincere goal in this bill is to provide safe and accurate diagnostic radiology exams for our patients, most of which have no idea how poor their radiology care may be. Thank you for your consideration of this important bill.



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on Licensure of Radiologic Technologists  
Substitute for House Bill No. 2698**

**to the  
Senate Committee on Public Health and Welfare**

**by  
Marla Rhoden, Director, Health Occupations Credentialing  
March 10, 2004**

Chairperson Wagle, I am pleased to appear before the Senate Committee on Public Health and Welfare to discuss Substitute for House Bill 2698. The Kansas Department of Health and Environment is responsible for the administration of the Kansas Health Occupations Credentialing Act, K.S.A. 65-5001 *et seq.*, the purpose of which is to review the public's need, according to statutory criteria, for a new health occupation to be credentialed in Kansas. Several health occupations have sought to become credentialed without the benefit to the legislature of this standardized review. Radiologic technologists, however, have pursued licensure through the statutory established process.

In April of 1997, the Kansas Society of Radiologic Technologists provided a letter of intent and then in October of 1998 submitted a formal application according to the Kansas Health Occupations Credentialing Act. A technical review committee was convened, and in October of 1999 the technical review committee found that the applicant group met all ten criteria outlined in the statute. This bill is similar to 2003 House Bill 2274 with the addition of the category of X-ray operator at a level of registration in this year's bill.

The provisions of this bill are consistent with the technical review with a couple of additions: 1) the addition of the category of X-ray operator and credentialing at the level of registration, which was not addressed by the technical review but which is consistent with the concern for grandfathering in of current practitioners; and 2) additional work outlining the composition of a radiologic technology council and the fee structure.

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DIVISION OF HEALTH

Bureau of Child Care and Health Facilities, Health Occupations Credentialing  
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE.330, TOPEKA, KS 66612-1365  
Voice 785-296-1240 Fax 785-296-3075 <http://www.kdhe.state.ks.us>

Passage of this bill serves to demonstrate the successful processing of an application for credentialing under the law. The department asks that the legislature act favorably on this bill as the applicant group has thoroughly demonstrated the need and rationale under the legislature's criteria for the licensing of radiologic technologists.

Thank you again for the opportunity to comment on Substitute for House Bill No. 2698. I would be happy to respond to any questions you may have.

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- ♦ -  
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**REBECCA RICE**  
ATTORNEY AT LAW

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TESTIMONY PRESENTED  
TO  
THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE  
re: HB 2698

March 10, 2004

by: Rebecca Rice, Legislative Counsel  
Kansas Chiropractic Association

Chairman and members of the committee, my name is Rebecca Rice and I am appearing on behalf of the Kansas Chiropractic Association to express appreciation for the effort Ron Hein and the radiologic technologists made to accommodate our concerns.

We believe that Mr. Hein went further than others might have gone in attempting to work with the various provider groups. Our discussions were facilitated by the Board of Healing Arts' staff which we also appreciate. Consequentially, KCA has no opposition to the original registration process nor to the House amendments creating a *registry* process. Because most chiropractic offices will only be affected by the sections regarding registered technicians, we have no comment regarding the licensing provisions.

- ♦ -

The X-ray was invented in 1895. Chiropractic was born in 1895 by Dr. Palmer.

Although unrelated, the events seem more than "merely coincidental" because Dr. Palmer quickly discovered the value of X-ray technology when providing chiropractic treatment. He was the first healing arts practitioner to utilize X-rays for spinal diagnostic purposes.

Chiropractors continue to use radiology as a primary diagnostic tool. Chiropractic education emphasizes the importance of structural and functional evaluation. Typically, that evaluation can not occur without skeletal imaging.

*Doctor of Chiropractic* is a post-graduate degree that normally requires an additional four years of study. Cleveland Chiropractic College in Kansas City, for example, is a three-semester-per-year, four year program. While reviewing the categories of studies for the House Health committee last year, Dr. Tom Nichols, chairman of diagnostic sciences at Cleveland Chiropractic College, told the committee that during those 12 semesters, Cleveland College requires 18.5 credit/semester hours (360 clock/contact hours) of radiology study.<sup>1</sup>

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<sup>1</sup> Taken from testimony presented to the House Health Committee, March 12, 2003, by Dr. Tom Nichols, chairman of the diagnostic sciences at Cleveland College of Chiropractic, as he reviewed a list of the categories of courses taught at Cleveland College:

"In the radiology category, 18.5 hours, semester hours of radiology, comes to 360 clock hours. In the topic of radiology, radiology, very important topic when you're dealing with the type of cases that we usually do. We start in radiology with normal rad or normal radiology being just how do you identify structures on

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Clearly, chiropractic education emphasizes radiology imaging as an important aspect of providing quality chiropractic health care including recognition that training in the use of radiology equipment is fundamental to:

- obtaining accurate images, and
- avoiding harm to both the patient and to those using the equipment.

The KCA believes that the chiropractic profession has an excellent record regarding radiology imaging both by chiropractors and the staff they have trained. However, the minimal requirements of HB 2698 is not harmful to the chiropractic profession and might, in some instances, improve services from all branches of the healing arts. HB 2698 is a reasonable compromise and we appreciate the concessions made by the radiologic technologists association.

Thank you and we are available for any questions.

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radiographs, what are normal appearances. Normal tends to vary across the age spectrum. Younger people, older people have different appearances than normal, so establishing a good basis of normal in the framework of radiology. Skeletal radiology, some people refer to it as bone pathology. Soft tissue radiology is an important portion of the radiology program. Special imaging topic gets a good amount of emphasis involving interpretation of MRI, CT, when correct referral for MRI, CT is indicated by other radiographic studies or by the physical examination procedures that they master by the time they get to the point of the radiology program. And in addition, the technology of X-ray, actually how are X-rays taken, how are radiographs exposed appropriately so that the films that are produced are of diagnostic quality and can be used in developing the health care and management program for that patient. Also, again, some emphasis, the amount of emphasis on public safety in the area of radiology, proper shielding, proper use of radiation so the patient isn't overly exposed or areas (that) should not (be) exposed that are, a lot of attention in the technical aspect of radiology as well."





TO: Senate Committee on Public Health and Welfare

FROM: Deborah F. Stern  
Vice President Clinical & Quality Services  
Kansas Hospital Association

RE: Substitute for House Bill 2698

DATE: March 10, 2004

Thank you for the opportunity to comment regarding the provisions of HB 2698. The passage of this legislation would create a distinct scope of practice for radiologic technologists in the state of Kansas. At the same time, other workers who might perform a task that is included in the scope of practice set out in the legislation would be penalized unless they were licensed. Legislation such as HB 2698, which grants credentialing status to a particular group, must be given careful review as it can affect the quality of health care provided to the public, increase the cost of health care, increase costs to employers and limit the ability of certain workers to provide health care in Kansas.

Health care providers in Kansas and across the nation are having more and more difficulty recruiting and retaining qualified health care personnel. Recently, the Kansas Hospital Association conducted a member survey that identified workforce shortages as one of the most critical problems facing hospitals in Kansas. Both statistical and anecdotal evidence of a long-term shortage of health care personnel continues to build. Hospitals are reporting immediate difficulty filling positions such as staff nurses, radiologic technologists, sonographers, nurse anesthetists, pharmacists, paraprofessionals and entry-level workers. In this testimony, we have included a map showing 2002 regional vacancy rates for radiologic technologists in Kansas.

The factors contributing to health care workforce shortages are complex. Clearly, the demand for health care services continues to increase with the explosion of new technology and aging of the population. The over 85 age group is the fastest expanding segment of the Kansas population. Persons in this age group require more health care services, and the demand for health care workers is projected to increase accordingly. In addition, the health care workforce is aging. The supply of health care workers also is projected to decline because fewer young people are choosing a health occupation as a career. Furthermore, the labor market is extremely competitive, and workers may opt for higher paying jobs in other sectors of the economy.

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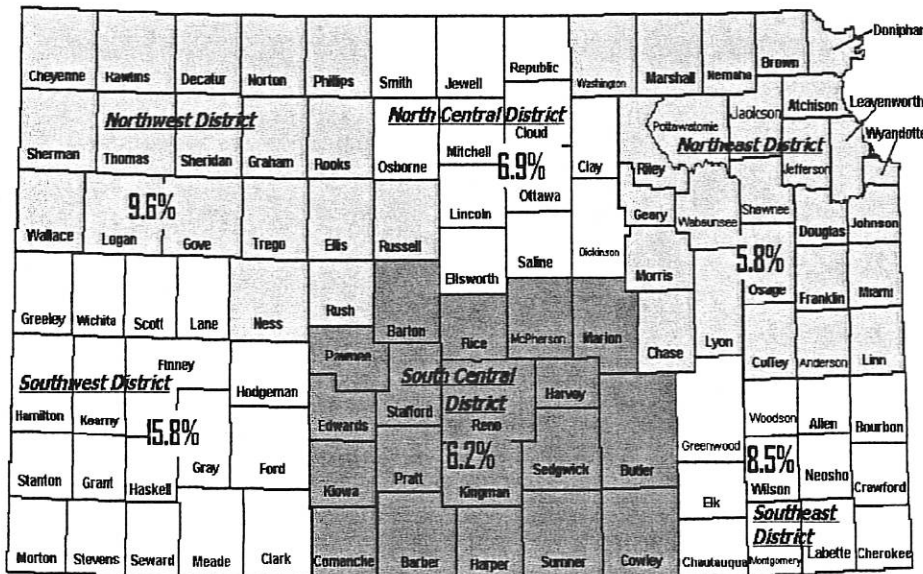
It is against this uncertain background that HB 2698 must be judged. In short, the committee must decide whether legislation such as this does anything to help resolve the current workforce shortages. Many of our small rural hospitals must cross-train their personnel to perform diagnostic radiological procedures. This training is done in order to assure that these hospitals have adequate on-call staff in a way that is financially feasible. The training of these staff members may be done on site, at the hospital or through secondary and tertiary hospitals willing to assist. Small rural hospitals have had to utilize on-the-job training to provide adequate coverage for their radiology departments. Current Kansas hospital regulations, which are enforced by the Kansas Department of Health and Environment, require that the personnel working in a hospital radiology department must be qualified for the type of service performed. In addition, current federal regulations state that in hospitals only personnel designated by the medical staff may use the radiologic equipment and administer procedures. Because of this, HB 2698 as introduced would have created regulatory barriers to the delivery of these types of services in some parts of the state.

We are encouraged by the amendments made to this bill providing for a registry of "x-ray operators." Having a registry provides flexibility and we think this is a positive step.

The bottom line is this: Many small rural hospitals in Kansas do not have the need, or the resources to hire a full-time radiologic technologist. Even if they did, the current worker shortage would prevent them from doing so. The legislature must recognize this fact and provide for some flexibility in the law. Otherwise, HB 2698 will act as a barrier to the delivery of health care in numerous small communities in Kansas. Thank you for your consideration of our comments.

### Radiologic Technologist (ARRT certified) 2002 Vacancy Rates in Kansas

Source: The Health Alliance of MidAmerica, 2002 Compensation Levels Survey Report



# 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:** March 10, 2004

**RE:** Testimony on Substitute for House Bill No. 2698

Thank you for the opportunity to appear before you and provide testimony regarding Substitute for House Bill No. 2698 on behalf of the Kansas State Board of Healing Arts. This bill would place on the Board the responsibility for licensing and regulating radiologic technologists and for maintaining a registry of x-ray operators. The Board is not taking a position either in favor or in opposition to the enactment of this bill. However, this neutral position should not be construed as indifference or lack of interest in whatever version of this bill you determine is appropriate to protect the citizens of the state of Kansas. To the contrary, the Board and its staff have devoted many hours in trying to assist all interested parties to reach an amiable solution that will both protect the citizens of this State and meet the needs of all interested parties.

The Kansas Board of Healing Arts was created in 1957. When the Board was created, the Legislature specified in K.S.A. 65-2801 that its purpose was to insure that "the public shall be properly protected against unprofessional, improper, unauthorized and unqualified practice of the healing arts". That purpose has not changed in the past 47 years and K.S.A. 65-2801 remains as it was enacted in 1957. Today, the Board regulates approximately 17,500 individuals that provide health care in 13 health care professions.

In October 1998, the Kansas Society of Radiologic Technologists submitted a credentialing application to the Kansas Department of Health and Environment. The application was reviewed by a technical committee in accordance with the Kansas Credentialing Act (K.S.A. 65-5001 *et seq.*). On October 13, 1999, the technical committee issued its final findings and conclusions. Please consider review of these findings and conclusions in detail. The technical committee found that the criteria for

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ROGER D. WARREN, M.D., Hanover  
JOHN P. WHITE, D.O., Pittsburg

credentialing had been met and recommended that licensure for radiologic technologists is the appropriate level of credentialing. Also in that report, the technical committee found there are currently 2532 registered and/or certified radiologic technologists in Kansas. It was also estimated that this number was approximately 75% of the persons currently performing radiology services in the state, so of these approximately 25% or 844 are non-credentialed persons performing radiology services who would be negatively affected by licensure. On November 1, 1999, Clyde D. Graeber, Secretary of Health and Environment, issued a final report to the Legislature in which he concurred that radiologic technologists should be licensed. Each of you may wish to review the statutory criteria, as set forth in K.S.A. 65-5006, that the Secretary was required to apply to the credentialing application.

This is the fourth consecutive year that a bill has been introduced in the Legislature to regulate radiologic technologists. During the 2003 Legislative Session, various groups met to try to work out language that would be acceptable to all interested parties. No resolution was reached. After those meetings in February, 2003, very little else was accomplished toward reaching a mutually agreeable resolution of the issues raised by this bill. However, at its meeting on December 6, 2003, the State Board of Healing Arts reviewed likely proposals for this Legislative Session. One of the items reviewed and discussed by the Board was 2003 H.B. No. 2274 relating to the licensure of radiologic technologists. The Board directed its staff to arrange a meeting with interested parties to attempt to reach a compromise bill that addressed all concerns. Meetings were held on December 17 and another on January 23 totalling more than five hours. On Friday, March 5, Board staff met again for approximately two hours with the sponsor of this bill.

Substitute for H.B. No. 2698 contains numerous amendments to the bill as originally introduced that have been agreed to by both the Board and other interested parties. However, the Substitute bill was passed by the House Committee before the Board had any opportunity to see or consider all of the provisions that the Committee considered. We have now had an opportunity to review the bill as it passed the House. As a result of that review, I am attaching to this testimony suggested amendments to the Substitute Bill that should enable the Board to provide for the regulation of radiologic technologists. I believe that these amendments are acceptable to the radiologic technologists. However, the proposed amendments do not deal with a major policy issue---that of placing on a registry those individuals who are to become x-ray operators as described in Section 7.

Section 7 of the bill provides that the Board will maintain a registry of the names of persons who will be known as "x-ray operators". This is a new concept that was added by the House Committee. You will note that Section 7 at page 5, lines 20 through 23 makes it unlawful for any person to function as an x-ray operator unless they are either licensed as a radiologic technology or have had their name entered on the registry of x-ray operators. The creation of this registry goes beyond mere title protection and actually creates a scope of practice which has generally been associated with licensure. This is actually the reverse of what you dealt with yesterday in changing the credentialing level of athletic trainers from registration to licensure. Licensure is, in effect, being provided to individuals whose names will be placed on the registry. Yet, there are no provisions

for determining the qualifications for these individuals and there are no educational or examination requirements. No application is required, no fee is allowed, no renewal process is provided. There are no grounds for denying a person from having their name placed on the registry although Section 7(e) does allow the Board to impose "sanctions" for violation described in Section 12. While Section 7(b) allows the Board to adopt rules and regulations for x-ray operators, there is no mechanism by which the Board can enforce compliance. Should an x-ray operator cease to be supervised, there are no provisions for removing the name from the registry. The only notice requirement to the Board is when an x-ray operator obtains new employment. I realize that other interested parties have agreed to the creation of this registry. However, the Board is looking for some direction on exactly what is expected of it in the creation and maintenance of this registry.

In summary, Substitute for H.B. No. 2698 would impose upon those radiologic technologists who have appropriate education and training the need to obtain a license from the Board and comply with all the requirements that may be established to maintain that license. On the other hand, licensed practitioners and hospitals would still be allowed to delegate radiography to anyone of their choosing. The only difference is that they will have to have go through the step of submitting a form to the Board to have the names of the x-ray operators placed on the registry.

The Board asks that you consider what public policy is advanced by the enactment of Substitute for H.B. No. 2698. Is it appropriate to deny healing arts licensees the ability to delegate radiography to anyone whose name has not been placed on the registry of x-ray operators or who is not licensed as a radiologic technologist? Is there another method by which the public can be protected such as registration of x-ray operators similar to that the Legislature required for pharmacy technicians in K.S.A. 2003 Supp. 65-1663? What benefit to the public is derived from maintaining the registry as currently described in Section 7? Should delegation be allowed without the creation of a registry for x-ray operators and the Board given the authority to designate criteria for supervision through rules and regulations? Should only radiologic technologists be regulated and a period of time provided for others to receive the credentials required for licensure?

In conclusion, the Board asks that you favorably consider the amendments to the bill attached to this testimony. Further, if the registry is to maintained as described in Section 7, the Board would like to have an opportunity to work with you, the Revisor and all interested parties to reach agreement on the specific language of Section 7.

I would be happy to respond to any questions at the appropriate time.

## Substitute for HOUSE BILL No. 2698

By Committee on Health and Human Services

2-23

9 AN ACT providing for the regulation and licensing of radiologic tech-  
10 nologists and x-ray operators; establishing a registry of x-ray operators;  
11 granting powers and duties of the state board of healing arts; estab-  
12 lishing a radiologic technology council and providing for the functions  
13 thereof; declaring unlawful acts and penalties.

14  
15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. Sections 1 through ~~15~~ and amendments thereto shall be  
17 known and may be cited as the radiologic technologists practice act.

16

18 Sec. 2. As used in this act:

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

20 (b) "Ionizing radiation" means x-rays, gamma rays, alpha and beta  
21 particles, high speed electrons, protons, neutrons and other nuclear par-  
22 ticles capable of producing ions directly or indirectly in its passage  
23 through matter.

24 (c) "License" means a certificate issued by the board authorizing the  
25 licensee to perform radiologic technology procedures on humans for di-  
26 agnostic or therapeutic purposes.

27 (d) "Licensed practitioner" means a person licensed to practice med-  
28 icine and surgery, dentistry, podiatry or chiropractic in this state.

29 (e) "Licensure" and "licensing" mean a method of regulation by  
30 which the state grants permission to persons who meet predetermined  
31 qualifications to engage in a health related occupation or profession.

32 (f) "X-ray operator" means a person who is not able to meet minimum  
33 requirements for a license as a radiologic technologist pursuant to this  
34 act and who is providing ~~limited~~ radiography under the supervision of a  
35 licensed practitioner, a person designated by a hospital licensed pursuant  
36 to K.S.A. 65-425 *et seq.*, and amendments thereto, or a licensee under  
37 this act and whose name is entered on the registry created herein pur-  
38 suant to this act.

39 (g) "Nuclear medicine technologist" means a person who uses radio  
40 pharmaceutical agents on humans for diagnostic or therapeutic purposes.

41 (h) "Nuclear medicine technology" means the use of radio nuclides  
42 on human beings for diagnostic or therapeutic purposes.

43 (i) "Radiation therapist" means a person who applies radiation to hu-

1 mans for therapeutic purposes.

2 (j) "Radiation therapy" means the use of any radiation procedure or  
3 article intended for the cure, mitigation or prevention of disease in  
4 humans.

5 (k) "Radiographer" means a person who applies radiation to humans  
6 for diagnostic purposes.

7 (l) "Radiography" means the use of ionizing radiation on human be-  
8 ings for diagnostic purposes.

9 (m) "Radiologic technologist" means any person who is a radiogra-  
10 pher, radiation therapist or nuclear medicine technologist.

11 (n) "Radiologic technology" means the use of radioactive substance  
12 or equipment emitting or detecting ionizing radiation on humans for di-  
13 agnostic or therapeutic purposes upon prescription of a licensed practi-  
14 tioner. The term includes the practice of radiography, nuclear medicine  
15 technology and radiation therapy, but does not include echocardiography,  
16 diagnostic sonography and magnetic resonance imaging.

17 (o) "Supervisor" means a licensed practitioner ~~or an employee~~ des-  
18 igned by a hospital licensed pursuant to K.S.A. 65-425 *et seq.*, and  
19 amendments thereto, providing supervision for a registered x-ray operator  
20 pursuant to this act.

or a licensee under this act

, a person

21 Sec. 3. (a) On and after July 1, 2005, except as otherwise provided  
22 in this act, no person shall perform radiologic technology procedures on  
23 humans for diagnostic or therapeutic purposes unless the person pos-  
24 sesses a valid license issued under this act.

25 (b) A person holding a license under this act shall use radioactive  
26 substances or equipment for radiologic technology procedures on humans  
27 only for diagnostic or therapeutic purposes by prescription of a licensed  
28 practitioner.

29 (c) No person shall depict one's self orally or in writing, expressly or  
30 by implication, as holder of a license who does not hold a current license  
31 under this act.

32 (d) (1) Only persons licensed under this act as a radiologic technol-  
33 ogist shall be entitled to use the title "radiologic technologist", abbrevi-  
34 ations thereof, or words similar thereto or use the designated letters  
35 "R.T." or "R.T. (R)".

36 (2) Only persons licensed under this act as a radiologic technologist  
37 and who have received additional certification from the American registry  
38 of radiologic technologists (ARRT) or the nuclear medicine technology  
39 certification board (NMTCB) shall be entitled to use the title "radiation  
40 therapist" or "nuclear medicine technologist", abbreviations thereof, or  
41 words similar thereto or use the designated letters "R.T. (N)" or "R.T.  
42 (T)".

43 (3) This section shall not prohibit a person who is licensed as a res-

1 piratory therapist by this state from using any letter or designation indi-  
2 cating that such person is engaged in the practice of respiratory therapy.

3 Sec. 4. The following shall be exempt from the provisions of this act  
4 and the requirement of a license pursuant to this act:

5 (a) A licensed practitioner;

6 ~~(b) a resident physician or a student enrolled in an educational pro-~~  
7 ~~gram approved by the board while under the direct supervision of a li-~~  
8 ~~icensed practitioner, a person designated by a hospital licensed pursuant~~  
9 ~~to K.S.A. 65-425 et seq., and amendments thereto, or a licensed radiologic~~  
10 ~~technologist;~~

11 (c) health care providers in the United States armed forces, public  
12 health services, federal facilities and other military service when acting in  
13 the line of duty in this state;

14 (d) persons rendering assistance in the case of an emergency;

15 (e) a licensed dental hygienist or an unlicensed person working under  
16 the supervision of a licensed dentist who has been trained by a licensed  
17 dentist on the proper use of dental radiographic equipment for the pur-  
18 pose of providing medical imaging for dental diagnostic purposes consis-  
19 tent with K.S.A. 65-1422 et seq., and amendments thereto; and

20 (f) a licensed physician assistant or a licensed nurse, working under  
21 the supervision of a licensed practitioner, who has been trained on the  
22 proper use of radiographic equipment for the purpose of performing ra-  
23 diography consistent with K.S.A. 65-2001, et seq., or K.S.A. 65-2801, et  
24 seq., and amendments thereto. The board may adopt such rules and reg-  
25 ulations as are necessary to assure that persons exempted from licensure  
26 under this subsection receive continuing education consistent with their  
27 practice authorized herein.

28 Sec. 5. An applicant for licensure as a radiologic technologist shall  
29 file an application, on forms provided by the board, showing to the sat-  
30 isfaction of the board that the applicant meets the following requirements:

31 (1) At the time of the application is at least 18 years of age;

32 (2) has successfully completed a four-year course of study in a sec-  
33 ondary school approved by the state board of education, passed an ap-  
34 proved equivalency test or graduated from a secondary school outside  
35 Kansas having comparable approval by the state board of education;

36 (3) has satisfactorily completed a course of study in radiography  
37 which is approved by the board and which contains a curriculum no less  
38 stringent than the standards of existing organizations which approve ra-  
39 diologic technology programs;

40 (4) except as provided in section 6, and amendments thereto, has  
41 successfully passed a license examination approved by the board; and

42 (5) has paid all fees required for licensure prescribed in this act.

43 (b) The board may issue a temporary license to an applicant seeking

a person issued a postgraduate permit by the board or students while in actual attendance in an accredited health care educational program and under the supervision of a qualified instructor



1 licensure as a radiologic technologist when such applicant meets the  
 2 requirements for licensure or meets all the requirements for licensure  
 3 except examination and pays to the board the temporary license fee as  
 4 required under section 12, and amendments thereto. Such temporary  
 5 license shall expire 180 days from the date of issue or on the date that  
 6 the board approves the application for licensure, whichever occurs first.  
 7 No more than one such temporary license shall be permitted to any one  
 8 person.

9 (c) The board may accept, in lieu of its own licensure examination, a  
 10 current certificate by the American registry of radiologic technologists,  
 11 nuclear medicine technologist certification board or other recognized national  
 12 voluntary credentialing bodies, which the board finds was issued  
 13 on the basis of an examination which meets standards at least as stringent  
 14 as those established by the board.

15 (d) The board may waive the examination, ~~education or experience~~ or  
 16 requirements and grant licensure to any applicant who presents proof of  
 17 current licensure as a radiologic technologist in another state, the District  
 18 of Columbia or territory of the United States which requires standards  
 19 for licensure determined by the board to be equivalent to the require-  
 20 ments under this act.

21 (e) A person whose license has been revoked may make written ap-  
 22 plication to the board requesting reinstatement of the license in a manner  
 23 prescribed by the board, which application shall be accompanied by the  
 24 fee provided for in section 12, and amendments thereto.

25 ~~(f) At least 30 days before the expiration of a license issued under~~  
 26 ~~this act, the board shall notify the licensee of the expiration date by mail~~  
 27 ~~addressed to the licensee's last mailing address as noted upon office~~  
 28 ~~records.~~

29 ~~(g) A licensee holding a license under this act shall notify the board~~  
 30 ~~in writing within 30 days of any name or address change.~~

31 Sec. 6. The board shall waive the education and examination require-  
 32 ments for an applicant who, on or before July 1, 2005:

33 (a) (1) Has been engaged in the practice of radiologic technology for  
 34 a period of at least two years of the three years immediately preceding  
 35 July 1, 2005;

36 (2) is 18 years of age or older; and

37 (3) has successfully completed secondary schooling or its equivalency;  
 38 or

39 (b) (1) has been engaged in the practice of radiologic technology prior  
 40 to July 1, 2005;

41 (2) has, at the time of application, a current valid certificate by the  
 42 American registry of radiologic technologists, nuclear medicine technol-  
 43 ologist certification board or other recognized national voluntary creden-

1 tialing bodies, which the board finds was issued on the basis of an ex-  
2 amination which meets standards at least as stringent as those established  
3 by the board;

4 (3) is 18 years of age or older; and

5 (4) has successfully completed secondary schooling or its equivalency;

6 or

7 ~~(e) (1) has engaged in the practice of radiologic technology prior to~~  
8 ~~July 1, 2005;~~

9 ~~(2) submits an affidavit from two of the following: A hospital admin-~~  
10 ~~istrator, a radiologist, or a licensed practitioner other than a radiologist~~  
11 ~~attesting to the applicant's competency in the practice of radiologic~~  
12 ~~technology;~~

13 ~~(3) is 18 years of age or older; and~~

14 ~~(4) has successfully completed secondary schooling or its equivalency.~~

15 Sec. 7. (a) The board shall maintain a registry of the names of per-  
16 sons who do not meet the requirements of this act for licensure as a  
17 radiologic technologist but who practice limited diagnostic radiography  
18 as an x-ray operator under the supervision of a licensed practitioner or of  
19 a person designated by a hospital licensed pursuant to K.S.A. 65-425 *et*  
20 *seq.*, and amendments thereto. It shall be unlawful for any person to  
21 function as an x-ray operator unless such person is licensed as a radiologic  
22 technologist under this act or unless such person's name has been entered  
23 on the registry of x-ray operators.

24 (b) The board may adopt rules and regulations establishing the reg-  
25 istry created herein and may provide for continuing education require-  
26 ments consistent with the performance of limited diagnostic radiography  
27 by x-ray operators.

28 (c) No person's name shall be entered on the registry of x-ray oper-  
29 ators unless such person has presented to the board an application signed  
30 by such person's supervising licensed practitioner or by such person des-  
31 ignated by a hospital licensed pursuant to K.S.A. 65-425 *et seq.*, and  
32 amendments thereto, on a form provided by the board which shall contain  
33 such information as required by rules and regulations adopted by the  
34 board. Every x-ray operator, within 30 days of obtaining new employment,  
35 shall furnish the board notice of the name and address of the new  
36 supervisor.

37 (d) A person whose name appears on the registry shall not hold  
38 themselves out as and shall not be entitled to use the titles listed in section  
39 3, and amendments thereto, or abbreviations thereof, or words similar  
40 thereto.

41 (e) A person whose name appears on the registry shall be subject to  
42 sanctions by the board for violations of section 12, and amendments  
43 thereto.

Insert New Section 8 (See last page of bill) and renumber Sections thereafter

1 Sec. 8. (a) There is established the radiologic technology council to  
2 assist the state board of healing arts in carrying out the provisions of this  
3 act. The council shall consist of five members, all citizens and residents  
4 of the state of Kansas appointed as follows: The board shall appoint one  
5 member who is a physician licensed to practice medicine and surgery  
6 who is also certified as a radiologist and one member who is a member  
7 of the state board of healing arts. Members appointed by the board shall  
8 serve at the pleasure of the board. The governor shall appoint three radiologic  
9 technologists who have at least three years' experience in radiologic  
10 technology preceding the appointment and are actively engaged, in  
11 this state, in the practice of radiologic technology or the teaching of radiologic  
12 technology. At least two of the governor's appointments shall be  
13 made from a list of four nominees submitted by the Kansas society of  
14 radiologic technologists. ~~Members appointed by the governor shall serve~~  
15 ~~at the pleasure of the governor.~~

one

16 (b) ~~The terms of office of the initial council members shall be as~~  
17 ~~follows: Two shall be appointed for a term of two years, one for a term~~  
18 ~~of three years, and two for a term of four years, with successor members~~  
19 ~~appointed for four years and to serve until a successor member is ap-~~  
20 ~~pointed. If a vacancy occurs on the council, the appointing authority of~~  
21 ~~the position which has become vacant shall appoint a person of like qual-~~  
22 ~~ifications to fill the vacant position for the unexpired term.~~

The members appointed by the Governor shall be appointed for terms of four years except that of the members first appointed, one

23 (c) Radiologic technologists initially appointed to the council must be  
24 eligible for licensure under section 5, and amendments thereto. On and  
25 after July 1, 2005, new appointees shall be licensed under the provisions  
26 of this act.

27 (d) The council shall meet at least once each year at a time and place  
28 of its choosing and at such other times as may be necessary on the chair-  
29 person's call or on the request of a majority of the board's members.

30 (e) A majority of the council constitutes a quorum. No action may be  
31 taken by the council except by affirmative vote of the majority of the  
32 members present and voting.

33 (f) Members of the council attending meetings of the council, or a  
34 subcommittee of the council, shall be paid amounts provided in subsec-  
35 tion (e) of K.S.A. 75-3223, and amendments thereto, from the healing  
36 arts fee fund.

37 Sec. 9. The radiologic technology council shall advise the board  
38 regarding:

- 39 (a) Examination, licensing and other fees;
- 40 (b) rules and regulations to be adopted to carry out the provisions of  
41 this act;
- 42 (c) subject areas to be covered during the educational program and  
43 on the licensure examination;

1 (d) the number of yearly continuing education hours required to  
2 maintain active licensure;

3 (e) changes and new requirements taking place in the area of radiol-  
4 ogic technology; and

5 (f) such other duties and responsibilities as the board may assign.

6 Sec. 10. (a) The board, with the advice and assistance of the radiol-  
7 ogic technology council, shall:

8 (1) Pass upon the qualifications of all applicants for examination and  
9 licensing; contract for examinations; determine the applicants who suc-  
10 cessfully pass the examination; duly license or register such applicants  
11 and keep a roster of all individuals licensed or registered;

12 (2) adopt rules and regulations as may be necessary to administer the  
13 provisions of this act; and prescribe forms which shall be issued in the  
14 administration of this act;

15 (3) establish standards for approval of an educational course of study  
16 and clinical experience, criteria for continuing education, procedures for  
17 the examination of applicants;

18 (4) establish standards of professional conduct; procedure for the dis-  
19 cipline of licensees and keep a record of all proceedings;

and

20 ~~(5) establish the effective period for a license and for its expiration~~  
21 ~~at the end of that time unless renewed in a manner prescribed by the~~  
22 ~~board upon payment of the license renewal fee established under this~~  
23 ~~act. The board may establish additional requirements for license renewal~~  
24 ~~which provide for completing the required number of continuing edu-~~  
25 ~~cation courses and any other evidence of continued competency the board~~  
26 ~~may require. The board may provide for the late renewal of a license~~  
27 ~~upon the payment of a late fee;~~

28 ~~(6) establish procedures for the registry established pursuant to sec-~~  
29 ~~tion 7, and amendments thereto; and~~

*delete.*

30 ~~(7) establish procedures for reinstatement of expired and revoked~~  
31 ~~licenses.~~

32 (b) A person whose license is suspended shall not engage in any con-  
33 duct or activity in violation of the order by which the license was sus-  
34 pended. ~~If a license revoked on disciplinary ground is reinstated, the~~  
35 ~~licensee, as a condition of reinstatement, shall pay the license renewal fee~~  
36 ~~and any other late fee that may be applicable.~~

37 Sec. 11. (a) The board shall charge and collect in advance fees for  
38 radiologic technologists as established by the board by rules and regula-  
39 tions, not to exceed:

40 Application for radiologic technologist examination .....	\$200
41 Application for license .....	\$80
42 Temporary licensing fee .....	\$40
43 License renewal .....	\$80

1	Late license renewal .....	\$80
2	License reinstatement fee .....	\$80
3	Certified copy of license .....	\$40
4	Verified copy .....	\$25

Revoked license reinstatement fee....\$200
---

5 (b) If the examination is not administered by the board, the board  
6 may require that fees paid for any examination under the radiologic tech-  
7 nologists practice act be paid directly to the examination service by the  
8 person taking the examination.

9 Sec. 12. (a) The license of a radiologic technologist may be limited,  
10 suspended or revoked, or the licensee may be censured, reprimanded,  
11 fined pursuant to K.S.A. 65-2863a, and amendments thereto, or otherwise  
12 sanctioned by the board or an application for licensure may be denied if  
13 it is found that the licensee or applicant:

14 (1) Is guilty of fraud or deceit in the procurement or holding of a  
15 license;

16 (2) has been convicted of a felony in a court of competent jurisdiction,  
17 either within or outside of this state, unless the conviction has been re-  
18 versed and the holder of the license discharged or acquitted or if the  
19 holder has been pardoned with full restoration of civil rights in which  
20 case the license shall be restored;

21 (3) is addicted to or has distributed intoxicating liquors or drugs for  
22 other than lawful purposes;

23 (4) is found to be mentally or physically incapacitated to such a degree  
24 that in the opinion of the board continued practice by the licensee would  
25 constitute a danger to the public's health and safety;

26 (5) has aided and abetted a person who is not a licensee under this  
27 act or is not otherwise authorized to perform the duties of a license  
28 holder;

29 (6) has undertaken or engaged in any practice beyond the scope of  
30 duties permitted a licensee;

31 (7) has engaged in the practice of radiologic technology under a false  
32 or assumed name or impersonated another licensee;

33 (8) has been found guilty of unprofessional conduct under criteria  
34 which the board may establish by rules and regulations;

35 (9) has interpreted a diagnostic image for a fee while unlicensed; or

36 (10) is, or has been, found guilty of incompetence or negligence while  
37 performing as a license holder.

38 (b) The denial, refusal to renew, suspension, limitation or revocation  
39 of a license or other sanction may be ordered by the board after notice  
40 and hearing on the matter in accordance with the provisions of the Kansas  
41 administrative procedure act and shall be reviewable in accordance with  
42 the act for judicial review and civil enforcement of agency actions.

43 Sec. 13. When it appears that any person is violating any provision

1 of this act, the board may bring an action in the name of the state in a  
2 court of competent jurisdiction for an injunction against such violation  
3 without regard as to whether proceedings have been or may be instituted  
4 before the board or whether criminal proceedings have been or may be  
5 instituted.

6 Sec. 14. The board shall remit all moneys received by or for the  
7 board from fees, charges or penalties to the state treasurer in accordance  
8 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon  
9 receipt of each such remittance, the state treasurer shall deposit the entire  
10 amount in the state treasury. Twenty percent of such amount shall be  
11 credited to the state general fund and the balance shall be credited to the  
12 healing arts fee fund. All expenditures from the healing arts fee fund shall  
13 be made in accordance with appropriation acts upon warrants of the di-  
14 rector of accounts and reports issued pursuant to vouchers approved by  
15 the president of the board or by a person or persons designated by the  
16 president.

17 Sec. 15. Any violation of this act shall constitute a class B misde-  
18 meanor.

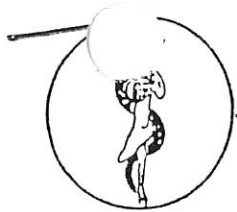
19 Sec. 16. This act shall take effect and be in force from and after its  
20 publication in the statute book.

New Section 8. (a) Licenses issued under this act shall expire on the date of expiration established by rules and regulations of the board unless renewed in the manner prescribed by the board. The request for renewal shall be accompanied by the license renewal fee established pursuant to section 12.

(b) At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee fails to submit an application for renewal on a form provided by the board, or fails to pay the renewal fee by the date of expiration, the board shall give a second notice to the licensee that the license has expired and the license may be renewed only if the application for renewal, 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 license shall be deemed canceled by operation of law and without further proceedings.

(c) The board may require any licensee, as a condition of renewal, to submit with the application for renewal evidence of satisfactory completion of a program of continuing education required by rules and regulations of the board.

(d) Any license cancelled for failure to renew may be reinstated upon recommendation of the board. An application for reinstatement shall be on a form provided by the board, and shall be accompanied by payment of the reinstatement fee and evidence of completion of any applicable continuing education requirements. The board may adopt rules and regulations establishing appropriate education requirements for reinstatement of a license that has been cancelled for failure to renew.



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March 4, 2004

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Dear Chairman Wagle:

With regard to the above-captioned bill, we understand it has been set for hearing before your committee on Wednesday, March 10, 2004, at 1:30 pm.

**DIRECTOR**

**MATTHEW R. GALLIANO, D.P.M.**  
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It's my understanding that favorable negotiation has been completed by all parties interested in this bill, and our association has no objection to its passage. I'll plan on attending the hearing, but do not plan to present testimony.

**IMMEDIATE PAST-PRESIDENT**

**RICHARD L. BRADBURY, D.P.M.**  
1529 East Iron Avenue  
Salina, KS 67401  
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Very truly yours,

*Wayne Probasco*  
Wayne Probasco  
WP/eb

**MEMBER OF ST. BOARD OF HEALING ARTS**

**FRANK K. GALBRAITH, D.P.M.**  
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cc: Ron Hein  
Clarence G. Clayton, DPM, president  
File

**EXECUTIVE SECRETARY**

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*Senate Public Health & Welfare Committee  
Attachment 9  
Date: March 10, 2004*

March 10, 2004

Written Testimony: Opponent: HB 2698

Mr. Chairman and Members of the Committee:

My name is James Kilmartin. I am a Registered Radiologic Technologist. I have been a registered technologist since 1978. I have worked as the Director of Medical Imaging for Stormont-Vail HealthCare, Topeka, Kansas, for the past twenty years.

I am writing in opposition to this bill. I believe the original intent of the bill has been lost, after some five years of consideration.

The bill presented for your consideration does not improve the quality of care to the residents of Kansas. It is a negotiated settlement, that essentially allows for the status quo in the use of ionizing radiation on human beings.

Please take a moment to consider why this bill should not be passed, since it does not change the use of ionizing radiation on the residents of Kansas nor improve the quality of care they will receive.

Thank you for your consideration,

James Kilmartin, RT(R), MSM, CHE, FAHRA  
Director of Medical Imaging Services  
Stormont-Vail HealthCare  
1500 West 10<sup>th</sup> St.  
Topeka, Kansas 66604  
785 354-6180  
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**David Saidian**  
**Line Medical**  
**810 East Murdock**  
**Wichita, KS 67214**  
**(316) 262-3444**

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March 1, 2004

Senator Jim Barnett  
Senator Karin Brownlee  
Senator Pete Brungardt  
Senator David Haley  
Senator Nick Jordan  
Senator Philip Journey  
Senator Larry Salmans  
Senator Chris Steinegar  
Senator Susan Wagle  
House Health and Human Services Committee  
300 SW 10<sup>th</sup>, Room 171 West  
Capital Building  
Topeka, KS 66612

Dear Senators,

My name is David Saidian and I am a certified nuclear medicine technologist.  
**I strongly oppose the provisions of House Bill 2698 as they pertain to nuclear medicine technologists.**

**I do not oppose the provisions of the bill as they pertain to x-ray technicians.**

**I oppose the bill for the following reasons:**

1. The KDHE Bureau of Radiation Safety already regulates Nuclear Medicine Technologists. The KDHE regulations already require adequate training for individuals who handle radioisotopes for use in humans.
2. Nuclear Medicine Technologists are required to work under a physician's supervision.
3. Requiring certification as stated in House Bill 2698 will impose hardships on small clinics and hospitals and drive up the cost of nuclear medicine as there is a nationwide shortage of certified nuclear medicine technologists.

Nuclear medicine technology involves the injection of radioisotopes into patients, with a picture taken by a nuclear gamma camera. The Kansas Department of Health and Environment ("KDHE") regulates the handling of radioactive materials, and has strict requirements for the

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training of individuals who will be handling radioactive materials. All hospitals and clinics with nuclear medicine departments must obtain a license and must comply with KDHE regulations, which include regulations regarding the handling and knowledge of the use and preparation of radioactive materials, as well as a requirement for a nuclear physician to be on the KDHE license and to supervise the department.

Currently, there is a nationwide shortage of certified nuclear medicine technologists. In addition, PET (Positron Emission Tomography), is luring many nuclear medicine technologists away from tradition nuclear medicine departments. As a consequence of the nationwide shortage and the increase in facilities with PET centers, salaries for nuclear medicine technologists have risen tremendously nationwide. Requiring certified nuclear medicine technologists in many Kansas hospitals and clinics would likely close nuclear medicine departments in small hospitals and clinics, thereby depriving patients and their physicians of the use of a very valuable diagnostic tool.

There is currently an adequate regulatory agency overseeing nuclear medicine technologists in Kansas. The majority of isotopes used in small hospitals and clinics have a very short half life, with low energy. Although the risks imposed by the misadministration of isotopes is minimal to the patient, it nevertheless is a reportable incident to the Kansas Department of Health and Environment. Because of the KDHE requirements, untrained individuals cannot perform nuclear medicine studies. Further, because a nuclear physician is required to be on the license and to supervise the department, there is an additional level of oversight already provided the Board of Healing Arts through the physician's supervision.

In conclusion, I believe that requiring hospitals and clinics to employ certified registered nuclear medicine technologists will not only drive up the cost of patient healthcare, but may also put at risk patients and physicians who will be deprived of being able to rely on nuclear medicine studies in diagnosing and treating illnesses. Because nuclear medicine is already regulated and only performed where a trained physician has oversight, there is no need at this point for any additional regulation.

Thank-you for the opportunity to share with you my views on this legislation.

Very truly yours,

David Saidian

9-4

To: Senate Public Health and Welfare Committee  
From: Linda Croucher, MS, RT(R)  
Date: March 10, 2004  
Subject: HB 2698; concerning credentialing of radiologic technologists

Madam Chairman and Members of the Committee:

My name is Linda Croucher. I am a radiologic technologist who was certified by the American Registry of Radiologic Technologists over 30 years ago. I have been a member of the Kansas Society of Radiologic Technologists for many years and am a past president.

The term radiologic technologist identifies certified personnel who perform medical imaging and radiation therapy procedures. The term includes radiographers (perform diagnostic procedures, and may include mammography, and computed tomography, and cardiovascular interventional procedures), radiation therapists, and nuclear medicine technologists. Formal educational programs for radiography are usually two years in length; radiation therapy programs are usually one year in length; and nuclear medicine programs are usually one year in length. All programs combine didactic and clinical education. Among other topics, didactic courses include: anatomy and physiology, patient care, processing, quality assurance, patient education, physics, procedures, radiograph evaluation, medical ethics and law, medical terminology, radiographic exposure, computer science, oncologic pathology, dosimetry, radiopharmacy, radionuclide chemistry, and nuclear physics.

There are three main points that demonstrate the necessity of credentialing.

#### **1) Patient Safety**

Ionizing radiation can damage cells as it passes thru the body. Radiation has been found to cause cancer and birth anomalies among other things. Radiation can cause damage to the exposed individual and damage to germ cells that can be passed on to future generations. Radiologic technologists are taught methods to minimize the amount of radiation to the patient and the operator. In addition, technologists operate under the ALARA principle which keeps the exposure *as low as reasonably achievable*.

Studies have shown that formally educated radiographers repeat fewer radiographs. Every repeat radiograph doubles the radiation dose to the patient and operator.

More than once I have been told that a person with no formal education believed that the monitoring device she wore protected her from the radiation. In truth, the device monitors the amount of radiation we have received.

Studies have also shown that ARRT (American Registry of Radiologic Technologists) registered technologists deliver less dose to the patient than those with no radiography credentials.

Radiation therapists administer massive doses of radiation to treat malignancies. These doses can destroy normal tissue as well as tumor tissue. An inadequate dose to the tumor would fail to destroy the tumor. It is imperative that the correct dose be delivered to the tumor while keeping dose to normal tissue at a minimum.

In nuclear medicine, the correct amount of the correct radiopharmaceutical must be delivered to the correct patient. Administration errors result in unnecessary radiation and/or incorrect diagnoses.

## **2) Enhanced Quality**

A radiograph of inferior quality can lead to an incorrect diagnosis. Inferior quality can be the result of overexposure, underexposure, motion, improper processing, failure to demonstrate necessary anatomy, etc. Technologists are taught to properly evaluate radiographs. In addition to realizing that a radiograph needs to be repeated, the technologist must understand how to correct the error,

I was asked to allow a woman who worked in an office in town to attend my positioning class. One day she asked me why her radiographs were not diagnostic. When I asked her some simple technique questions, her answer was "I don't know. I was told to push this button and that button, and expose".

## **3) Health Care Cost Reduction**

When radiographs are repeated, the cost of health care increases due to additional cost of film, processing, time, etc. Another problem arises when a patient with inadequate x-rays is referred to a specialist. The specialist has the examination repeated in order to make a correct diagnosis. This doubles the cost to the insurance company or, when the insurance company refuses to reimburse the second examination, the patient must pay.

Inadequate radiographs cause incorrect diagnoses. For instance, an underexposed chest examination can mimic a disease while an overexposed chest radiograph can obscure a disease. Therefore, the patient may be diagnosed and treated for a disease he doesn't have or the treatment for a disease is delayed due to the absence of a diagnosis. Either way, the cost of health care rises.

A study from Texas evaluated over 25,000 cases performed by certified technologists and over 20,000 cases performed by OJT trainees. The study found that the percentage of radiographs from OJT trainees was 2.8 times worse with over-penetrated films; 4 times worse with under-penetrated films; 3.5 times worse with films containing patient motion; 7 times worse with films showing poor detail from production artifacts; and 4.5 times worse with images that were missing critical anatomy.

The general population is exposed to natural background and manmade radiation. Short of moving, we cannot change the amount of natural background radiation we receive. It is estimated that nearly half of the American population will have a radiographic examination in a given year. Therefore it is imperative that we keep the exposure to manmade radiation as low as possible.

Senate Public Health and Welfare Committee  
Linda Croucher Testimony on HB 2698  
March 10, 2004  
Page 3

The federal government has recognized that persons administering radiation to human beings and programs that educate these individuals should be credentialed/accruited. They enacted the Consumer-Patient Radiation Health and Safety Act of 1981 and the Mammography Quality Standards Act. Unfortunately, the 1981 act did not mandate that each state enact a similar law and MQSA only regulates mammography examinations. While mammograms are very crucial examinations performed by radiologic technologists, they do not make up the majority of radiographic examinations, each of which is crucial to that patient. If you have been referred to the department for a foot radiograph to detect a fracture or a radiograph of the chest to diagnose a disease, that is a very critical examination for you.

Currently Kansas is one of thirteen states that does not credential radiologic technologists. I believe that every citizen of Kansas deserves to have quality radiologic care. Thank you for your thoughtful consideration of my comments and this bill.



**Testimony Re: Sub. HB 2698**  
**Senate Public Health and Welfare Committee**  
**On behalf of**  
**Kansas Society of Radiologic Technologists**  
**March 10, 2004**

Madam Chairman and members of the committee, my name is Randy Stucky and I represent the Kansas Society of Radiologic Technologists, a professional, non profit organization founded for the express purpose of enhancing, through education, the proper and safe delivery of medical imaging and therapy services. I welcome the opportunity to appear before you today and commend the Kansas legislature for its attention to this very important subject.

90% of public exposure to man-made ionizing radiation results from medical procedures, primarily diagnostic x-ray examinations. The **FDA Bureau of Radiologic Health** has estimated that 30% of exposures to man-made radiation are unnecessary, and 5% to 10% of the unnecessary exposures may be attributed to repeated x-ray examinations. If only 0.5% of the exams performed in 1996, which was 350 million, were improperly performed, the consequences would be more than 4100 non diagnostic medical images every day of the year.

Regretfully the improper utilization and production of excessive and unnecessary medical radiation exposure is a widespread practice throughout our state. Over utilization, as well as improper utilization, of radiation in the practice of medicine is a genuine and ever-increasing health hazard to the public and most importantly to those we hold close to us, that it must be dealt with now. **A physician using x-ray equipment in his practice is under no obligation to ascertain or require any credential or specific education of the person he or she employs to operate the equipment. Literally, anyone off of the street can be hired this morning and be operating this potentially dangerous equipment this afternoon.**

Since the enactment of **Public Law 90-602, the Electronic Products Legislation of 1968**, significant steps have been taken to protect public health through the regulation of electronic products such as x-ray and other medical imaging equipment. However, like your car, the operator determines the use and abuse of this equipment. No one would permit his or her car, with all of its safety features, to be driven by someone who has never been taught to drive. And yet, we allow untrained operators to expose our family and friends to radiation that can affect future generations.



On the Federal level, the U.S. Congress passed a bill in 1981, the **Consumer-Patient Radiation Health and Safety Act**, calling for minimum educational standards for operators of x-ray equipment. The passage of this bill mandated states to establish minimum standards for operators of ionizing radiation equipment. Unfortunately, compliance with this bill is voluntary and there are no penalties for not following this Federal recommendation. One other movement on the Federal level was the approval of the **Mammography Quality Standard Act** of 1992. MQSA established a uniform standard for a radiologic procedure and set minimum qualifications for those who perform it and interpret it. I think all of us can understand the importance of the MQSA. I am confident that everyone here has been touched by the effects of breast cancer in some way.

There are 37 states that have developed minimum standards or adopted regulatory processes for radiologic technologists. One of the 37 states, California, submitted a report to their legislature after 10 years of requiring licensure for radiologic technologists. I have heard that licensure will only raise the cost of healthcare? The report from California showed that for the 10-year period, overall medical fees increased 92.7% throughout the state, while fees for radiology services only increased 59.2%. Certification has not caused increases in the costs of radiology services, but rather has helped to reduce increasing costs of health care through knowledgeable radiologic technologists; competent in reducing not only radiation exposure to the consumer-patient, but also in reducing waste of medical supplies, technologist and patient time and the wear and tear of radiologic equipment from improper use.

During President Jimmy Carter's administration, he formed the **Department of Health and Human Services task force** to investigate the effects of low-level radiation. Among the many recommendations of this report, minimum educational standards for the operators of x-ray machines were recognized as one of the foremost methods of reducing radiation exposure. This report also showed that:

- A patient undergoing the same x-ray examination may receive 100 times more radiation in one hospital or clinic as in another.
- Over 90% of the radiation the general public receives is from exposure to medical x-rays, while less than 10% is from naturally occurring radiation, nuclear fallout, nuclear accidents or nuclear power plants.
- Over 40% of personnel administering ionizing radiation for medical purposes have not received any formal education in radiologic technology.
- 80% of the medical radiation the consumer-patient receives is administered in facilities other than a hospital.
- The patient receives more radiation from an x-ray examination of the abdomen than the entire exposed public received from the Three Mile Island incident.



## KANSAS SOCIETY OF RADIOLOGIC TECHNOLOGISTS

In 1979, President Carter signed **Executive Order 10831**, which approved a number of recommendations for the guidance of Federal agencies.

Recommendation number eight (8) stated:

“Operation of medical or dental x-ray equipment should be (performed) by individuals who have demonstrated proficiency to produce diagnostic quality radiographs with the minimum of exposure required; such proficiency should be assessed through national performance-oriented evaluation procedures or by didactic training and practical experience identical to, equivalent to, or greater than training programs and examination requirements of recognized credentialing organizations”

There are 2500 registered technologists practicing in Kansas that have demonstrated their competency through education and voluntary certification through the American Registry of Radiologic Technologists (ARRT) and other certification bodies. There is no way of knowing how many people with minimal training and no certification are operating x-ray, radiation therapy and other medical imaging equipment in Kansas and administering potentially harmful ionizing radiation to family and friends without having demonstrated scientific knowledge, technical understanding, clinical competency or professional responsibility for the practice of proper radiological procedures.

From its inception, the Kansas Society of Radiologic Technologists has recognized that formal education coupled with moral obligation is a controlling factor in the competence of the individual and in the reduction of unnecessary radiation to both the patient and the practitioner. As educated radiologic technologists, we strive to eliminate unnecessary radiation, and optimize that which is needed to produce a diagnostic image. We have voluntarily submitted to examination and have met the educational standards prescribed by the profession.

The Kansas Society of Radiologic Technologists does not believe there is an alternative to uniform standards. We remain firm in our opinion that without uniform standards for qualifications of persons who perform medical imaging and radiation therapy procedures, the public, specifically family and friends will remain unprotected and at the mercy of untrained personnel. Because of the unique nature and inherent danger of radiation, the KSRT believes that every patient undergoing a medical imaging examination has the right to have that examination performed properly and with minimal risk by a qualified practitioner.

A voluntary credentialing process for medical radiologic technologists through the American Registry of Radiologic Technologists (ARRT) has existed for over 75 years. Other nationally recognized credentialing agencies are the Nuclear Medicine Technology Certification Board (NMTCB) and Cardiovascular Credentialing International (CCI). But these credentials are voluntary and are not





## KANSAS SOCIETY OF RADIOLOGIC TECHNOLOGISTS

a condition for practice in Kansas. Consequently, the voluntary credentialing programs cannot effectively impact the radiation health and safety of the citizens of Kansas, since non-credentialed personnel can still administer medical radiation examinations.

We commend the Kansas legislature for its interest and timely concern with respect to the potential health hazards of medical diagnostic x-rays resulting from the lack of proper safeguards and qualifications of persons operating ionizing radiation equipment. We believe that this legislative area demands prompt and effective action. We urge the Kansas legislature to continue its effort to seek a sound legislative solution to this problem which we believe is essential to protect the rights of our family and friends to properly performed radiologic examinations and from the potential hazards of excessive and unnecessary medical imaging examinations and radiation therapy procedures. Thank you.

Sincerely,

*Randy C. Stucky, B.S.R.T.(R)*

Randy C. Stucky, B.S.R.T.(R)  
Executive Board member & Legislative Chair  
Kansas Society of Radiologic Technologists