

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 11, 2004 in Room 231-N of the Capitol.

All members were present except:
Senator Chris Steineger- absent

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. Larry Buening, Executive Director, State Board of Healing Arts
Mr. Doug Smith, Executive Director, Kansas Academy of Physician Assistants

Others attending:
Please See Attached List.

Recognition of Student Nurses attending the meeting

Upon calling the meeting to order, the Chair recognized and welcomed the Senior Nursing Students from Emporia University at Emporia, Kansas to the Public Health and Welfare Committee Meeting.

Hearing on HB2779 - an act concerning the State Board of Healing Arts, relating to supervision of physician assistants

The next order of business was the hearing on HB2779 and asked Mr. Furse to give a brief overview of the bill. His highlights included:

- 1) The bill was introduced by the House Committee on Health and Human services and amended by the House;
- 2) The bill basically relates to two physician assistant changes:
 - A) On page 2 and this is throughout the bill, the physician assistants' language is changed to "physician" without the apostrophe s ('s). The legislature has been doing this for the last couple of years.
 - B) The policy change in the bill is on page 6, in lines 41 through 43 and at the top of page 7, line 1. The current law provides that physicians are limited to have under their supervision, two physician assistants. This language would change, and would allow the Board to limit by rules and regs, the number of physician assistants a responsible physician may supervise at any one time; and,
- 3) Lastly, he stated the balance of the sections relate just to the terminology change on the term "physician assistant."

A discussion ensued between Senator Barnett, Mr. Furse, and Ms. Correll when the questions were asked:

- 1) Regarding your interpretation of current language, if a health care provider or licensed practitioner has two physician assistants and one is on vacation, do you interpret the law to allow that provider to have a second person come in or a combination of part-time employees; and
- 2) Doesn't there have to be the name of the supervising physician on file with the Board showing the physician assistants that the physician supervises?

The Chair then announced the first proponent conferee, Mr. Larry Buening, Executive Director, Board of Healing Arts, who stated:

CONTINUATION SHEET

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE at 1:30 p.m. on March 10, 2004 in Room 231-N of the Capitol.

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- 1) The provisions of Sec.6 have been reviewed and approved by the Physician Assistant Council and the Board's Legislative Committee;
- 2) The proposed language, if adopted, will provide more flexibility than current language but still provides assurance that adequate/appropriate supervision will be provided;
- 3) Two of the statutes, one regarding a violation and the other imposing requirements on a physician, are unaffected by the change being proposed in Sec. 6.

A copy of his testimony is (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

The second proponent was Mr. Doug Smith, Executive Director, Kansas Academy of Physician Assistants, who offered: the history of the physician assistant and facts (ex. In Kansas, there are nearly 600 PA's licensed by the Board of Healing Arts), and stated removing the two PA limit will allow for flexibility and appropriate utilization of PAs in Kansas, improving patient access to care. A copy of his testimony is (Attachment 2) attached hereto and incorporated into the Minutes as referenced.

The Chair then announced that the Sedgwick County Medical Society did submit written testimony and were concerned about the bill. Dr. Kevin Hoppock's testimony offered:

- 1) If the Committee believes it best to delete in the statutes any reference to the number of PA's a physician may utilize, the society strongly recommends that the word "may" in line 42, page 6 be deleted and the word "shall" be inserted, assuring the Board must address the issue of numbers, direction, and supervision of PA's by practicing physicians;
- 2) It is noteworthy that current law allows physicians to supervisor more that two PAs when the medical care is provided in a hospital (see Sec. 6, pages 6-7)?

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

The Chair then asked for questions and comments from the Committee. A discussion among Senators Brungardt, Wagle, Barnett, and Salmans, Ms. Correll, Mr. Furse, Mr. Buening, and Mr. Smith included:

- 1) With Senator Barnett's previous question, Mr. Buening's answer, Mr. Smith's testimony, all speaks to the idea that there would be two or fewer PA's per physician, but the statute clearly goes from two to some number, what is missing here, it looks like a radical change in policy as opposed to an accommodation of juggling schedules and technical judgment; what is the intent (Are we going to a certain number for physicians depending on what type of practice they have and where they live?).
- 2) The Chair stated that she is hearing concern regarding two employees and one goes on vacation, you need to bring in a third person to substitute, but if we do something, what follows this?
- 3) Is there any suggested language or intent that might fit the statute?
- 4) Ms. Correll asked if it would it be possible to say no more than two full-time as approved by the Board? (At least if you had a situation where someone was supervising four or five people the Board would have to be aware the situation existed, essentially giving the Board the freedom what constitutes the two when it comes to full time)
- 5) It's difficult in this context to put an hourly basis in this because some people have 60-70 hours some weeks;
- 6) Have we had any occurrences of any PA's going outside their boundaries or beyond their scope under current law? (Mr. Buening gave the statistics: from 3-1-03 through 2-29-04 had 19 investigative cases that went for review by the PA council, of which, nine had some sort of allegation about not being in appropriate contact with their physician, ex. PA failed to recognize respiratory failure and did not notify the responsible physician, another used the doctor's DEA number inappropriately, hospital reports, and three malpractice suits.);

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- 7) What were Mr. Buening's thoughts regarding Ms. Correl.'s suggestion?
- 8) Concerns on the 80 hours, in rural areas a PA is called in to relieve one or two physicians for the weekend, do you see anything in this that would complicate that arrangement?
- 9) When a physician is gone (vacation, sick, a conference, etc.) who is to supervise that employer?

As there was no further discussion, Mr. Furse offered one possible change, which was to delete the new ital. material, reinsert current law, and add a phrase "for the equivalent of two full-time PA's as defined by the Board."

The Chair closed the hearing.

Reminder

The Chair stated she had committed to the Kansas Health Institute not to have a meeting next Thursday, March 18, so the Committee could attend the luncheon on Medicare prescription drug federal reform and wanted to remind them of this, so they could call and get their reservations in, otherwise, the Committee will meet next Monday, March 15, 2004 for a hearing on a bill request on long term care.

Adjournment

As there was no further business, the meeting was adjourned. The time was 2:30 p.m.

The next meeting is scheduled for Monday, March 15, 2004.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

DATE: Thursday, March 11, 2004

NAME	REPRESENTING
Michelle Peterson	K. Governmental Consulting
Lynne Bralle	LCOV/KSNA
Heath Walber	ESU/NDN Student
Lindy VanScape	ESU/NDN Student
Megan Wake	ESU/NDN Student
Misty Weltha	ESU/NDN Student
Michelle Tajchman	ESU/NDN Student
Amanda Fischer	ESU/NDN Student
Zane Hoffman	ESU/NDN Student
Ed Mee	HEW Law Firm
Mary Hildbrandt	Conley Consulting Group
LORETTA BREWSTER	KAPA
Doug Smith	Ks. Academy Physician Assistants
Merk Stafford	BOARD
LARRY BUENING	BD OF HEALING ARTS
Chip Wheelen	Assn of Osteopathic Medicine

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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 *LTB*

DATE: March 11, 2004

RE: **House Bill No. 2770**

Thank you for the opportunity to appear before you on behalf of the State Board of Healing Arts in support of House Bill No. 2770. The only substantive change to the laws pertaining to physician assistants is in Section 6, at page 6, line 40 through page 7, line 1. The current law states that no responsible physician can have more than two physician assistants under their direction and supervision. The proposed change would allow the Board to limit by rules and regulations the number of physician assistants a responsible physician may supervise at any one time. The remaining sections of the bill amend various other statutes by deleting the apostrophe "s" in the title used by physician assistants which was deleted in the physician assistant laws when those were amended effective February 1, 2001. The House Committee amendment changed "registered" to "licensed" in K.S.A. 72-5213 to conform with the language adopted by the 2000 Legislature.

The provisions of Section 6 have been reviewed and approved by the Physician Assistant Council and the Board's Legislative Committee. Further, the Board as a whole considered and approved this amendment at its meeting January 31, 2004. There have been instances brought to the Board's attention in which a physician assistant works only one or two days a week or only portions of a day. However, the current statutory language has prevented the responsible physician from having more than two physician assistants under their direction and supervision even though only one physician assistant may be working under the responsible physician at any point in time. The Board believes that a regulation can be adopted that will provide more flexibility than the current statutory language, but still provide assurance that adequate and appropriate supervision will be provided.

*Senate Public Health & Welfare Committee
Attachment 1
Date: March 11, 2004*

MEMBERS OF THE BOARD

JOHN P. GRAVINO, D.O., PRESIDENT
Lawrence

RAY N. CONLEY, D.C., VICE-PRESIDENT
Overland Park

VINTON K. ARNETT, D.C., Hays
GARY L. COUNSELMAN, D.C., Topeka
FRANK K. GALBRAITH, D.P.M., Wichita
MERLE J. "BOO" HODGES, M.D., Salina
SUE ICE, PUBLIC MEMBER, Newton
JANA JONES, M.D., Leavenworth

BETTY McBRIDE, PUBLIC MEMBER, Columbus
MARK A. McCUNE, M.D., Overland Park
CAROL H. SADER, PUBLIC MEMBER, Shawnee Mission
CHARLOTTE L. SEAGO, M.D., Liberal
CAROLINA M. SORIA, D.O., Wichita
ROGER D. WARREN, M.D., Hanover
JOHN P. WHITE, D.O., Pittsburg

K.S.A. 65-2836(bb) makes it a violation of the healing arts act for a licensee who is the responsible physician for a physician assistant to fail to adequately direct and supervise the physician assistant in accordance with the physician assistant licensure act or rules and regulations adopted under such act. You will also note that in Section 5 of the bill, K.S.A. 65-28,127 imposes a number of requirements on physicians who serve as a responsible physician for a physician assistant. These statutory requirements are unaffected by the change being proposed in Section 6 and will continue to remain in effect should H.B. No. 2770 be enacted.

Thank you for the opportunity to provide testimony in support of this bill.

Kansas Academy of Physician Assistants
Remarks Concerning House Bill No. 2770
Senate Public Health and Welfare Committee
March 11, 2004

Senator Wagle and Members of the Senate Committee:

Thank you for the opportunity to present testimony in favor of HB 2770. I am Doug Smith and I serve as the Executive Director for the Kansas Academy of Physician Assistants.

House Bill No. 2770 addresses some old terminology, "physician's assistants" and incorporates the correct name of the profession, physician assistants. But the primary focus of the bill is to remove the limitation of number of physician assistants (PAs) that a physician may supervise. The current statute states in part, "No responsible physician shall have under such physician's direction and supervision more than two physician assistants." This language would be deleted and authority will be given to the individual practice and the Board of Healing Arts to regulate the number of PAs that a physician may supervise.

Historically, the concept of the physician assistant was born during WWII when there was a significant shortage of physicians and Dr. Eugene Stead developed a fast track program for training physicians. Dr. Stead refined the concept and founded the first physician assistant program at Duke University from which 3 PAs graduated on October 6, 1967. Since that time the physician profession has flourished and today, in Kansas, there are nearly 600 PAs licensed by the Board of Healing Arts. The first legislation for PAs in Kansas was passed in 1973. Though we've grown from being registered to licensed, and rules and regulations have changed over the past 30 years, Kansas PAs (and the American Academy of Physician Assistants) have remained committed to quality patient care and dependent practice with physicians.

It's time to remove the statute which limits the physician's utilization of PAs. The American Medical Association Council on Medical Service stated in their 1998 report that "Supervising physicians are the most knowledgeable of their own supervisory abilities and practice style, as well as the training and experience of physician extenders in their practice...Specified ratios of supervisory physicians to physician extenders might restrict appropriate provision of care and could reduce access to care." Removing the two PA limit will allow for flexibility and appropriate utilization of PAs in Kansas and improve patient access to care.

We appreciate your consideration and encourage your favorable action on House Bill No. 2770.

*Senate Public Health & Welfare Committee
Attachment 2
Date: March 11, 2004*



MEDICAL SOCIETY of SEDGWICK COUNTY

1102 S. Hillside • Wichita, KS 67211 • Telephone (316) 683-7557 • Fax (316) 683-1606 • www.mssconline.org

March 10, 2004

Senator Susan Wagle, Chairman
Senate Public Health and Welfare Committee
300 SW 10TH Avenue
Topeka, KS 66612-1504

Dear Senator Wagle:

I appreciate very much this opportunity to express in writing the MSSC's views regarding HB 2770.

I am a family physician and have practiced in the Wichita community for 12 years. I have worked with a physician assistant (P.A.) in my office practice for the last seven years. My experience has been very positive and I believe that the majority of practicing physicians in Sedgwick County do not oppose the use of physician assistants when they are utilized appropriately. As their professional reference indicates they are "assistants"; they are not substitutes for or replacements of the physician. My PA assists me as an integral member of my team in providing care to my patients. Her talents allow me to better utilize my training and my time. An integral part of this working relationship is our closeness, my availability to the assistant and the patient, as well as my oversight, direction and supervision of her activities. Each of these are necessary in providing high quality medical care, using a team approach.

To achieve the intended value of the physician assistant, there must be real and meaningful physician-provided direction and supervision. Ideally, this should occur in close proximity, not miles and be limited to a manageable number of assistants.

The MSSC opposes deleting the number of P.A.'s an individual physician may supervise (two) as currently provided by Kansas statute. The society continues to support the intent agreed to when physician assistants became formally recognized in 1986, that being, to maintain a dependent role under the supervision and direction of a responsible physician. In main, we believe this practice philosophy has been beneficial to patients, physicians and physician assistants.

To ensure continued and adequate supervision, direction and quality assurance, the society does not believe there is justification or a need at this time to eliminate the reference to the number of physician assistants a physician may utilize. If this amendment is passed, it will be possible for a physician to use an unlimited number of P.A.'s and we do not believe this is in the best interest of patients or the provision of high quality medical care. If your committee believes it best to delete in the statutes any

Senate Public Health & Welfare Committee
Attachment 3
Date: March 11, 2004

Senator Susan Wagle

March 10, 2004

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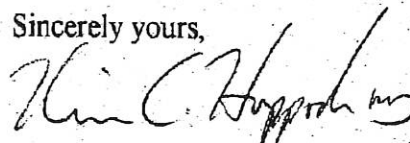
reference to the number of PA's a physician may utilize, the society strongly recommends that the word "may" in line 42, page 6 in HB 2770 be deleted and the word "shall" be inserted. This will assure that the Healing Arts Board must address the issue of numbers, direction and supervision of P.A.'s by practicing physicians. The word may implies uncertainty.

It is noteworthy that current law allows physicians to supervise more than two physician assistants when the medical care is provided in a hospital (see section 6 of HB 227, pages 6-7). The Legislature has thus acknowledged the important distinction between the physician assistant who is under direct supervision of a responsible physician in the same medical care facility, compared to the physician assistant who is located miles away in a satellite clinic. It seems obvious that immediate supervision provides greater assurance of quality care, compared to independent practice by physician assistants with little more than a protocol notebook and telephone access to the responsible physician located miles away who may or may not always be available.

One must question whether the justifying reason for HB 2770 is access to care, bottom line economics, or as indicated by a proponent of the bill "to place PA's on an equal footing with ARNP's." From the standpoint of quality medical care, what we really should be concerned about is how many physician extenders of all kinds can a physician effectively supervise in different practice settings.

Consideration of our thoughts in your deliberations of HB 2770 is appreciated.

Sincerely yours,



Kevin C. Hoppock, M.D.
Co-Chairman, MSSC
Legislative Committee

KCH/DA/jn

WAGLE

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