

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE.

The meeting was called to order by Chairperson Senator Susan Wagle at 1:30 p.m. on February 24, 2003 in Room 231-N of the Capitol.

All members were present except: Senator David Haley
Senator Chris Steineger
Senator Nancey Harrington

Committee staff present: Mr. Norm Furse, Revisor of Statutes
Ms. Margaret Cianciarulo, Administrative Assistant

Conferees appearing before the committee: Mr. Bud Burke, Lobbyist for the Physical Therapists
Mr. Daryl Menke, PT.
Mr. Mark Dwyer, PT., MHA
Ms. Pam Palmer, PT.
Ms. Rebecca Rice, Legislative Council,
Kansas Chiropractic Association
Dr. Darrel Force, Legislative Committee,
Kansas Chiropractic Association
Ms. Maggie Kelley, Massage Professional,
Kansas Association of Therapeutic Massage
& Bodywork, Inc.

Others attending: see attached guest list

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

Upon calling the meeting to order, the Chair announced that the Committee would be hearing **SB225**, an act relating to physical therapy; providing for licensure of physical therapists and asked Mr. Norm Furse, Revisor of Statutes, to give a brief overview. Highlights of Mr. Furse's overview are as follows:

1) Section 1: changes "registration" to "licensure" and the definition of physical therapy throughout the bill, it protects the scope of practice (currently for PT.'S being registered, the title PT. and some other terms are protected, but the scope of practice is not, the bill changes this.). It makes a technical change for the Board of Healing Arts (referring to the Board of Healing Arts as "Board" throughout the bill) and the Examining Committee for Physical Therapy renamed as the Physical Therapy Advisory Council. Also, certain protections regarding terminology and abbreviations, and definitions are expanded considerably (ex.; "practice of PT."). Mr. Furse provided a handout reflecting the current law and the proposed changes. A copy of the handout is (Attachment 1) attached hereto and incorporated into the Minutes as referenced. Lastly, a number of the proposed terms are used in other acts (ex. Physiological appears in the Occupational Therapy Licensure Act and a similar type of term appears in the Chiropractics Statute 65-2871).

2) Section 2 commences the language on the examining committee and the deletions and additions (eliminate the examining committee reference as they no longer give the exams) and use the new terminology physical therapy advisory council.

3) Section 3 provides the committee or councils appointments (lines 21 through 27 stricken because outdated).

4) Section 4 sets terminology changes throughout the bill (ex. State board of healing arts to only read "board").

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5) Section 5 consists of technical changes (ex. registration to licensure), inserts language similar in other Board of Healing Arts statutes, allowing applicants, who attended a program not approved by the Board, to provide an evaluation showing the educational program met the criteria and deletion of outdated language.

6) Section 6 deletes the American registry of physical therapists and in ©), adds new language to provide for a temporary permit expiring one year from date of issue or Board approval.

7) Section 7 deletes ©) requiring physical therapists to maintain a policy of professional liability insurance.

8) Section 8 inserts a section placing the maximum fees that are charged for physical therapist licensure in the statute itself; (2) allows the board to charge fees for exams that it gives or requires the applicant to pay the examining service the fee; and, (3) adds “fees fixed by the Board will continue in effect until different fees are fixed by the Board.”

9) In Section 9, currently the Board, in disciplining PTs, may revoke or suspend their license, the additional italicized language allows the license or certificate may be limited or censured by the Board; regarding the definition of unprofessional conduct, the bill adds “as defined by rules and regulations adopted by the board.”

A key element in the physical therapist’s act that is not being changed in this proposal, states on page 9, lines 18 through 21, that the physical therapist works on the prescription of a licensed physician, podiatrist, or dentist.

10) Section 10 refers to language relating to the terms and scope of practice and deleting the wording in lines’ 30-32 and pulled down to lines 33 thru 37 in the italicized language, making no change in the law. The change is in lines 42 and 43 which provides that it is unlawful for any person to engage in the practice of physical therapy. This protects the scope of practice by making it a violation of this subsection as a class B nonperson misdemeanor; (b) is the language for the certified physical therapists; ©) commencing on line 16, are exclusions from the act. (Typically in these types of licensure acts, there is a broad definition of what constitutes the practice of a particular group of professional people and then a “laundry list” of what is excluded. These exceptions would be applicable as long as the person listed or enumerated in the exceptions did not hold themselves out in a manner prohibited under (A) or (B), so does not hold themselves out by title that is protected for physical therapists for this act); nothing in the act will be construed to permit the practice of medicine or surgery; no statute granting authority to licensees of the state Board of Healing Arts will be construed to confer authority upon physical therapists to engage in any activity to confer by this act.

11) Section 11 - terminology changes (ex. Registered changed to licensed);

12) Section 12 and adding new enforcement authority for the Board of Healing Arts (ex. (b) seeks injunctions & ©) allows the board to seek a civil fine);

13) Sections 13 & 14 - terminology changes (certificate to registration) and adding “acts amendatory of the provisions thereof or supplemental thereto.”;

14) Subsequent sections are those where the term currently is in ending statutes (ex. page 14, line 35 changing registered to licensed physical therapists). The one difference here is in Sec.40-3401 stating physical therapists are no longer under the health care stabilization fund, necessitating amending two Sections which reference this statute pulling it out of here to keep those other sections all the same and needed to insert license physical therapists and the reference to this Sec.(ex. Page 25, line 10 and 15);

15) The remaining sections are terminology changes consistent with prior sections, (ex. Sec.30 states how

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long the bill will be in force, and this was used because last year the legislature in passing the occupational therapy act used April 1, 2003 as the effective date).

Questions from Senators Wagle and Barnett for Mr. Furse ranged from: is professional liability insurance required in this bill; clarification on page 10 & 11 regarding exceptions from scope of practice or this act will not be construed to include those individuals so long as they do not hold themselves out to be physical therapists; how are the chiropractic statutes written (protected scope of practice and part of the healing arts act); could a chiropractor say they are going to give physical therapy to (referencing page 11, line 3) if a student is in an athletic trainer program, would this be an accredited health care educational program?

As there were no further questions of Mr. Furse, Chairperson Wagle called on the first proponent to testify, Mr. Bud Burke who acknowledged his presence and stated he was there to represent the physical therapists. He offered no written testimony.

The second proponent conferee was Mr. Daryl Menke, Physical Therapist, who provided the three elements of the physical therapy profession and the curriculum for an accredited physical therapist program and suggested amendment language (Page 2, Section C, line eight, inserting the term "anatomical" after the term "mechanical" and on Page 6, Section C, line 16, elimination of "one year" which were placed in error and replace with three months (was agreed upon and approved by the Kansas City Board of Healing Arts); and language currently in **SB225** not consistent with current language. A copy of his testimony and proposed amendment changes is (Attachment 2) attached hereto and incorporated into the Minutes as referenced.

The next proponent was Mr. Mark Dwyer, Physical Therapist, MHA, who stated what the broad scope of practice allows, what the interventions physical therapists may include, what is a physical therapist and how techniques are carried out, and a trend that further illustrates the need for patients to be confident in the qualifications of who is providing their care is a large pending change in how commercial insurance is administered to employees (ex. "defined contribution plans"). A copy of his testimony is (Attachment 3) attached hereto and incorporated into the Minutes as referenced.

The last proponent conferee to testify was Ms. Pam Palmer, Physical Therapist, who stated that the physical therapists of Kansas do not wish to limit any other profession's ability to perform their interventions or procedures, made evident by the exclusionary list added to the bill, however, with regard to scope of practice, there is and will continue to be overlap between professions. A copy of her testimony is (Attachment 4) attached hereto and incorporated into the Minutes as referenced.

Three consumer advocates, Mr. Anthony Fadale, Mr. Lloyd Langston, and Dr. YeVonne Kimmitt, offered proponent testimony, but because of time constraints, would submit as written testimony. Copies of their testimonies are (Attachment 5) attached hereto and incorporated into the Minutes as referenced.

The Chair began opponent testimony with the introduction of Ms. Rebecca Rice, Legislative Council, Kansas Chiropractic Association, who stated she would first comment on the KDHE credentialing committee procedure, then offer several amendments KDHE believe are necessary to avoid action that would further encourage a rush of other health care providers to change their credentialing level. A copy of her testimony is (Attachment 6) attached hereto and incorporated into the Minutes as referenced.

The second opponent conferee recognized was Dr. Darrel Force, Legislative Committee, Kansas Chiropractic Association, who stated he was here to offer information concerning definitions and educational requirements relating to the scope of practice language contained in **SB225**. A copy of his testimony is (Attachment 7) attached hereto and incorporated into the Minutes as referenced.

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The final opponent to testify was Ms. Maggie Kelley, Massage Professional, representing the Kansas Association of Therapeutic Massage and Bodywork, Inc. who asked that "Massage Therapists/Practitioners" be added to the exemptions and requested that the exemption also include KS Board of Healing Arts 65-2872F. A copy of her testimony is (Attachment 8) attached hereto and incorporated into the Minutes as referenced.

The Chair then announced that there were three neutral conferees and asked that they be available to address the Committee tomorrow, February 25, 2003, at 1:15 p.m. then there would be time today to ask questions of the physical therapists and chiropractors.

The Chair then asked for questions from the Committee. Senators Barnett, Wagle, Salmans asked questions ranging from if the Committee acted upon this, would they be opposed to liability insurance, have the physical therapists seen the amendments that the chiropractors proposed, what is grade four thrust manipulation and would they be using it, qualifications with regard to training, regarding the request from Maggie Kelley, would it be consistent or inconsistent with the current language of the bill, to concerns with KDHE's evaluation process being inadequate regarding the difference between registration and licensure.

As there were no further questions from the Committee, the Chair also announced that Ms. Marla Rhoden, Director, Health Occupations Credentialing, was signed up to testify today, but cancelled due to illness. A copy of her testimony supporting the bill is (Attachment 9) attached hereto and incorporated into the Minutes as referenced.

Adjournment

The Chair then announced the neutral testimony would be heard tomorrow and adjourned the meeting. The time was 2:30 p.m.

The next meeting is scheduled for February 25, 2003.