

MINUTES OF THE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairperson Landwehr at 1:30 p.m. on March 9, 2011 in Room 784 of the Docking State Office Building.

All members were present except:

Representative Bob Bethell – excused
Representative Owen Donohoe – excused
Representative Phil Hermanson – excused

Committee staff present:

Norm Furse, Office of the Revisor of Statutes
Katherine McBride, Office of the Revisor of Statutes
Martha Dorsey, Kansas Legislative Research Department
Dorothy Noblit, Kansas Legislative Research Department
Jay Hall, Kansas Legislative Research Department
Debbie Bartuccio, Committee Assistant

Conferees appearing before the Committee:

Ron Hein, Kansas Physical Therapy Association ([Attachment 1](#))
Dan Morin, Kansas Medical Society ([Attachment 2](#))
John Keifhaber, Executive Director, Kansas Chiropractic Association ([Attachment 7](#))
Dr. Don Fishman, Advisory Committee on Trauma ([Attachment 8](#))

Others attending:

See attached list.

SB 76 – Representation of licensure, certification and credentials of doctors of physical therapy and physical therapist assistants.

Chairperson Landwehr opened the hearing on **SB 76**.

Ron Hein, representing the Kansas Physical Therapy Association, presented testimony in support of the bill which included a proposed amendment. ([Attachment 1](#)) The Kansas Physical Therapy Association (KPTA) is non-profit professional association representing physical therapists, physical therapist assistants who are licensed to practice in Kansas, and Kansas physical therapist students and physical therapist assistant students. KPTA is a chapter of the American Physical Therapy Association (APTA), the national professional organization representing more than 75,000 members.

KPTA supports the bill which amends the definitions section and the title protection section of the PT licensure act. This bill authorizes by statute licensees to use the term “doctor of physical therapy” if they have earned a doctorate of physical therapy degree. The current statute only permits the licensees to use the term “D.P.T.”, but not “doctor of physical therapy”. In addition, the amendments in the bill will permit licensees to use degrees or professional certifications which they have earned behind their name. Previously, BOHA legal counsel have advised the KPTA that licensees cannot use credentials which they have properly earned, whether post graduate degrees or professional certifications.

The Kansas Medical Society and the Board of Healing Arts raised some concerns at the Senate hearing, and as a result of those concerns, the Senate Committee made amendments to the bill that were agreed to jointly by the KMS and the KPTA.

We did advise the KMS and the board that we had some concerns about the process for the board “recognizing” the credentials for the licensees. We believe that the process should be simple, and should NOT involve the burdensome and lengthy process of the board having to promulgate rules and regulations every time a new proposed credential is presented to the board for approval. We are attempting to work with the board to resolve this process.

I have attached to my testimony a copy of the suggested amendment to the bill which we have sent to the

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Board of Healing Arts for their review. As of my finalization of this testimony, we have not had a chance to meet with anyone from the board.

However, we are hopeful of having this process resolved, and possibly inserting the process language into this legislation to insure that this process is exempted from the Rules and Regulations Filing Act procedure prior to this hearing. If such agreement cannot be reached by hearing time, we hope to have this process resolved prior to the time that this committee takes action on this bill.

We hope that this process will be satisfactory to the board, but at this point are not able to say that they are in agreement with this proposed amendment to the bill. We hope to meet with them to discuss this proposed amendment as soon as possible, and definitely hope that we can meet with them prior to your committee taking action on the bill.

Lastly, I want to point out that the Kansas Medical Society has advised us that they desire to present legislation, probably next year, to address the issue of health care providers utilizing the term "doctor" within their scope of practice on a comprehensive basis. The KPTA will work with and be involved with the KMS with regards to such legislation.

On behalf of the KPTA, we urge your support for the bill, and also would hope to be able to set out a non-burdensome and time consuming process for the board to "recognize" credentials, that does NOT involve the time-consuming process of promulgating rules and regulations.

Dan Morin, Kansas Medical Society, presented testimony in support of the bill. (Attachment 2) Allied healthcare providers who have achieved their doctorate degrees are increasingly using the title of "Doctor" in their practice settings, advertisements, and other patient communications. As we have previously stated before legislative committees, when a doctoral degree is cited among an individual's professional qualifications in any form of advertisement or other patient communication, the field of study for the degree should be specified in order to avoid confusion and/or misrepresentation. Individuals who use the title "Doctor" or the abbreviation "Dr." in any form of advertising or other patient communication in connection with his/her practice should be required to simultaneously, and in direct conjunction, use a clarifying title, initials, abbreviations or designation, or language that identifies the type of practice for which he/she is certified or licensed.

The American Physical Therapy Association recently adopted a position statement covering the use of the title "doctor" by physical therapists. The policy reads, "in order to provide accurate information to consumers, physical therapists who have earned a Doctor of Physical Therapy Degree (DPT) and those who have earned other doctoral degrees and use the title "Doctor" in practice settings shall indicate they are physical therapists."

The Healing Arts Act since 1957 has required similar disclosure for physicians and chiropractors when presenting oneself to the general public:

KSA 65-2885. Use of title by licensee. No person licensed hereunder shall use a title in connection with his name which in any way represents him as engaged in the practice of any branch of the healing arts for which he holds no license: Provided, however, that every such licensee when using the letters or term "Dr." or "Doctor" shall use the appropriate words or letters to identify himself with the particular branch of the healing arts in which he holds a license.

A physical therapist, and any health care practitioner, should certainly be entitled to use a suffix indicating that they have earned an academic degree, including one at the doctorate level. However, it should also be abundantly clear that there is significant responsibility on any person using the prefix of "Dr", or a suffix indicating the earning of a doctorate degree, that no one is led to believe that they are a licensed to

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practice medicine and surgery unless they are so licensed. Proper usage in written communication should be mandated. For example:

- Dr. Jane Smith, Doctor of Physical Therapy
- Jane Smith, DPT

In addition to written communication, examples of proper verbal communication would be “Hello, I am Dr. Jane Smith, and I will be your physical therapist.” When providing direct patient care, a physical therapist or any allied health care provider that uses the title “Doctor” is responsible to make sure that no person believes that they are licensed to practice medicine and surgery and appropriate disciplinary action should be taken in cases where the public is misled. In the event that a complaint is received by the Board that a physical therapist, or any non-physician health care provider, is representing themselves as a person licensed to practice medicine and surgery, the fact the complainant has that believe would indicate that the provider had not met the burden of responsibility.

In addition, we support language found on page 2, lines 15-20 requiring approval by the full Board of Healing Arts for the use of certifications or credentials by physical therapists when communicating with the public. The American Board of Physical Therapy Specialties (ABPTS) states it offers board-certification in eight specialty areas of physical therapy including those identifying physical therapists as: Cardiovascular and Pulmonary Certified Specialists, Geriatric Certified Specialists, Neurologic Certified Specialists, Orthopaedic Certified Specialists, Pediatric Certified Specialists, Sports Certified Specialists, as well as a Women's Health Certified Specialists. Without appropriate statutory or regulatory direction it is feasible that a physical therapist licensed under the proposed bill could present oneself in an advertisement to the public as a “Doctor specializing in Pediatrics” in bold-type while in small type elsewhere in the add disclose the doctorate to be in physical therapy. Proper disclosure requirements and mandates need to be in place to ensure that the Board can carry out its enforcement functions in the best interest of the public.

Carolyn Bloom, PT, Chair of the Physical Therapy Advisory Council of the Kansas State Board of Healing Arts, presented written testimony only in support of the bill. ([Attachment 3](#)) She stated the bill is attempting to include the legally correct wording to allow Kansas Physical Therapists and Physical Therapist Assistants to use all the designations and terms of their education. The Physical Therapy Advisory Council and the Kansas Physical Therapy Association representatives are awaiting a meeting to work with the Board of Healing Arts on the KMS agreed upon amendments. She urged support of the bill which will allow health care consumers in Kansas to be aware of the advanced degrees, and specialist education of physical therapists for true transparency to patients in making choices of providers.

Mary Moore, Executive Director, Kansas Physical Therapy Association, presented written testimony only in support of the bill. ([Attachment 4](#)) In October of 2010, the KPTA became aware of limitations being imposed upon the use of the term “Doctor of Physical Therapy” and usage by PT’s and PTA’s of specialty designators, other degrees, or any other credential(s) after their name other than those listed in K.S.A. 65-2901 (b) and (c).

During the October 27, 2010 KSBHA Physical Therapy Advisory Council meeting, the Kansas State Board of Healing Art’s attorneys and Executive Director gave their interpretation of the language as being “inclusive” and thus limited to the designations, words/terms, initials and insignias contained in those paragraphs and no others. They further indicated that disciplinary action could be taken against any PT and PTA continuing the use of any specialty designators, other degrees, or any other credential(s) after their name other than those listed in the statute as they would be in violation of the statute.

The intent of the bill is to protect Kansas licensed PT’s and PTA’s in their right to utilize any designations and terms of their education they have rightfully earned and to thus provide patients of physical therapy with the knowledge necessary to make educated choices about their provider of care.

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Candy Bahner, DPT, Assistant Chair and Director of Clinical Education for the Doctor of Physical Therapy Program at Wichita State University, presented written testimony only in support of the bill. (Attachment 5) 2003 SB 225 – Licensure of physical therapists made substantial changes to the laws governing physical therapists (PT's) and physical therapist assistants (PTA's), including the change of credentialing status of PT's from registration to licensure. When this bill was passed, it was the KPTA's intent and understanding that the designations, words/terms and initials outlined in K.S.A. 65-2901 (b) and (c), and in K.S.A. 65-2913 (a) and (b) were there to protect the designations, words/terms and initials, and thus prevent anyone who didn't meet the requirements to be a PT or PTA from using those designations, words/terms and initials. The KPTA's intent and understanding of 2003 SB 225 was never to prohibit PT's and PTA's from being able to list or use in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials which they had rightfully earned.

From the passage of 2003 SB 225 through October of 2010, the KPTA and the PT's and PTA's in Kansas had been conducting themselves and their businesses with that understanding. Thus, we were extremely surprised when we learned in October (October 27, 2010 Kansas Board of Healing Arts PT Advisory Council meeting) that the Kansas Board of Healing Arts had taken action against a PT with a Doctor of Physical Therapy degree for using the term Doctor of Physical Therapy in conjunction with her name in an advertisement. It was the understanding of KPTA leadership present at the October 27, 2010 meeting, that the current Kansas Board of Healing Art's attorneys and Executive Director were interpreting K.S.A. 65-2901 (b) and (c) to be "inclusive", and mean that PT's and PTA's could only use the designations, words/terms, initials and insignias contained in those paragraphs and no others. Thus, every PT who uses any of the specialty designators, other degrees, or any other credential(s) after their name other than those listed in the statute would be in violation of the statute and could have disciplinary action taken against them.

Currently in Kansas, the entry level degree for PT's is the Doctor of Physical Therapy degree and has been since 2007. In the United States, of the 212 accredited physical therapy programs on January 28, 2010, 203 were Doctor of Physical Therapy programs. In fact, the Commission on Accreditation in Physical Therapy Education will require all programs to offer the Doctor of Physical Therapy degree effective December 31, 2015.

Besides a physical therapy degree, PT's and PTA's may choose to go for an additional degree(s) (MS, MA, MSc, MBA, MPH, ScD, DSc, PhD, EdD, JD, PsyD, etc.) or choose to acquire advanced certifications/credentials (OCS, ECS, GCS, NCS, OCS, PCS, SCS, WCS, CCI, etc.). Currently the American Board of Physical Therapy Specialties (ABPTS) offers eight (8) specialty certifications. As of June 2010, the ABPTS has certified 38 Kansas licensed PT's as clinical specialists: 8 Geriatric Certified Specialists (GCS), 1 Neurologic Certified Specialist (NCS), 21 Orthopedic Certified Specialists (OCS), 2 Pediatric Certified Specialists (PCS), 5 Sports Certified Specialists (SCS) and 1 Women's Health Certified Specialist (WCS). According to the ABPTS, these individuals have earned the right to designate their certification by use of the initials "CS" (Certified Specialist) immediately following the initial of their specialty area.

I am proud to say I have earned a Bachelor of Science Physical Therapy degree, a Master of Science Education degree and a Doctor of Physical Therapy Degree. I have also earned credentialing as a Credentialed Clinical Instructor. My latest diploma reads "Candace A. Bahner has been admitted to the degree of Doctor of Physical Therapy with distinction and is entitled to all the rights, privileges, and dignities which pertain to that degree." Thus, I am entitled to the right and privilege to say, to call, and to advertise that I am a Doctor of Physical Therapy.

In my employment at Wichita State University and my previous employment at Washburn University, I am/was expected to designate my licenses and degrees after my name. Upon receiving my Doctor of Physical Therapy degree it was expected that I be addressed as Dr. Bahner and that I indicate all my

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licenses, degrees and certifications after my name. However, it is my understanding that the current Kansas Board of Healing Arts would consider that a violation of K.S.A. 65-2901.

Thus, I ask that you please support the bill and allow PT's and PTA's to list and use in conjunction with their name, any letters, words, abbreviations or other insignia to designate any educational degrees, certifications, or credentials which they have rightfully earned. As I indicated before, we are not asking for something new, as this was the intent and understanding of 2003 SB 225 up until the current Kansas Board of Healing Art's attorneys and new Executive Director interpreted it differently.

Erin Hignight, Physical Therapy Student, Baker University, presented written testimony only in support of the bill. (Attachment 6) She stated it is important to her to introduce herself as Dr. Hignight, your physical therapist, after three post baccalaureate years of education and proving her competency with a national licensure examination.

John Keifhaber, Executive Director, Kansas Chiropractic Association, presented testimony in opposition to the bill. (Attachment 7) KCA members recognize the accomplishments of those attaining the degree of doctor of physical therapy, and also recognize the value to Kansas patients of professional physical therapy services as referred by practitioners of the healing arts in Kansas. Under Kansas law these services are provided only by a licensed individual, and only on referral from licensed practitioners of the healing arts, with some exceptions.

However, we find some concern on the use of the term "doctor" when used in the clinical health care setting, where there can be confusion for the public on whether the physical therapist is a doctor of medicine, doctor of osteopathy, or doctor of chiropractic. These healing arts practitioners also use the term "doctor" when examining, diagnosing, and treating patients for injuries and illnesses. In a clinical setting the term "doctor" has many connotations, including the ability to examine, order and interpret x-rays and other tests, and to properly diagnose all conditions the patient may present. But these procedures are not within the physical therapy scope of practice in Kansas.

For these reasons we would oppose the use of the term "doctor" in the delivery of physical therapy services in Kansas.

There was no other testimony submitted in opposition or neutral to the bill. The Chair gave committee members the opportunity to ask questions and when all were addressed, the hearing on **SB 76** was closed.

SB 139 – Members of regional trauma councils and advisory committee on trauma.

Chairperson Landwehr opened the hearing on **SB 139**.

Dr. Don Fishman, on behalf of the Advisory Committee on Trauma (ACT), presented testimony in support of the bill. (Attachment 8) The Advisory Committee on Trauma is a 24-member committee that was established by the Legislature in 1999 when Kansas recognized the need for a functioning trauma system in our state to save lives and ensure the best possible patient outcomes for those seriously injured by trauma. Unlike many health issues, trauma is a time-critical illness, so having organized regional care systems in place is critical to achieve this goal.

ACT members are appointed by the Governor and represent health care provider organizations in both urban and rural areas. We were established to provide input and guidance to the Secretary of KDHE in the

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development and implementation of this statewide trauma system. We, the ACT, in turn, receive local guidance from each of the 6 Regional Trauma Councils in the state.

Like the ACT, the regional trauma councils are comprised of health care providers in the state. Their work is to support local facilities and EMS organizations in their efforts to provide quality trauma care. One way they do this is to support quality improvement – sometimes called performance improvement. Currently, hospitals improve their care by discussing case studies. Similarly, the Regional Trauma Councils look at ways to address regional system issues, but they are currently unable to discuss the details of specific cases in a protected environment. They would like to do this because they believe it could lead to improved patient outcomes. This bill would allow members of the Regional Trauma Councils and the ACT to be considered peer review officers so that these frank discussions can take place in a protected environment.

This bill would provide for a physician-led, multi-disciplinary committee to use health care information for statewide trauma system quality improvement purposes. This would assist these committees in providing KDHE with input and guidance that would allow for meaningful system change.

Chad Austin, Kansas Hospital Association, presented written testimony only in support of the bill. ([Attachment 9](#)) The Kansas Hospital Association appreciates the opportunity to testify as the bill allows regional trauma councils and the advisory committee on trauma to engage in peer review. By clearly defining the advisory committee on trauma and regional trauma councils as “health care providers”, it affords them peer review protection under Kansas Statute (K.S.A. 65-4915). The regional peer review process will ensure that the most appropriate care is rendered to a patient. This activity will further integrate rural and metropolitan hospitals across the state by encouraging process improvement for trauma. As hospitals work in collaboration with state efforts to develop a coordinated and effective trauma system, the peer review process plays a key part in monitoring quality. The development of a statewide trauma system of care includes a mechanism for ongoing evaluation to improve the process and effectiveness of the system as a whole and by its components – pre-hospital, dispatch, medical control, field triage, hospital care, inter-facility triage, and rehabilitation care.

A performance improvement plan in an organized trauma care system consists of internal and external monitoring and evaluation of care provided through the phases of care and continuum of care. The goal of monitoring is to identify opportunities to reduce inappropriate variations in care and to develop corrective action strategies. The effectiveness of the corrective action is monitored and measured through progressive review cycles. A multidisciplinary trauma peer review process demonstrates appropriate discussion of the identified performance improvement issue, impact on patient care, standard of care review, and action plan. The attached diagram illustrates the regional trauma performance improvement process envisioned by Kansas.

Rosanne Rutkowski, RN, MPH, presented written testimony only in support of the bill. ([Attachment 10](#)) State trauma systems have been developed on evidence-based research that suggests injury outcomes improve when standards of care are instituted to ensure optimal care of the trauma patient.

Legislation was passed in 1999 authorizing the development and implementation of a statewide trauma system in Kansas. KDHE, with input from the Advisory Committee on Trauma (ACT), has successfully developed and implemented the key components of a comprehensive trauma system, including: 1) establishment of regional councils; 2) implementation of a statewide data collection system and quarterly data reports; 3) support for training and education of Kansas health care providers on trauma care; and 4) support of injury prevention activities that is driven by data.

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Kansas has six robust regional trauma councils that implement activities to develop regional care systems. The activities of these councils support: 1) reducing the number of injuries; 2) improving the outcomes of those who are injured; and 3) facilitating appropriate use of health care resources. Setting up an organized regional care system is important, because severe trauma is a time-sensitive condition that can be immediately life-threatening. Very often access to specialized care is needed for special populations, e.g., pediatrics and geriatrics, which requires an organized regional and state system for accurate and rapid assessment and transfer. Inter-facility and inter-disciplinary peer review is an essential component in developing these trauma care systems. The ability to implement a peer review process would allow the regional trauma councils and the ACT to assess and address important regional and state issues that affect trauma care and outcomes.

Currently, peer review protection for this kind of regional and state-level quality improvement is not explicitly provided for under current Kansas law. The bill provides the needed protections for the ACT and the regional trauma councils to implement a peer review process that will allow trauma care providers to share their experiences for the purposes of accountability, mutual learning and identification of opportunities for system improvement. KDHE supports this bill.

Darlene Whitlock, RN, Immediate Past President, Kansas Emergency Nurses Association, presented written testimony only in support of the bill. ([Attachment 11](#)) Emergency nurses from each of the six trauma regions have been actively involved in the development of the Kansas Trauma System through Regional Trauma Councils and the Advisory Committee on Trauma. One of the many components of a trauma system is to assure quality by evaluating the care delivered.

As individual trauma centers have developed across the state, they have evaluated the care delivered through a performance improvement process. As the state system has matured, the need for regional and statewide process improvement has evolved. An impediment to this progression has been the lack of peer protection status. This bill will help ensure that the rigorous evaluation of trauma care will occur, yet be protected. This will translate into improved outcomes and lives saved.

Although providers strive to give the best care possible, close scrutiny of events, in a non-threatening setting, often yields opportunities to improve. This type of evaluation can only benefit future patients and serve as an educational opportunity for all involved.

There was no testimony in opposition or neutral for the bill. The Chair provided committee members the opportunity to ask questions and when all were answered, the hearing on **SB 139** was closed.

The next meeting is scheduled for March 10, 2011.

The meeting was adjourned at 2:36 p.m.