

## 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 8, 2004 in Room 231-N of the Capitol.

All members were present except:

Senator Chris Steineger- absent  
Senator Nick Jordan- 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. Jerry Slaughter, Executive Director, Kansas Medical Society  
Mr. Paul Silovsky, PT, Legislative Committee Chair, Kansas Physical Therapy Association  
Ms. Terry Roberts, Executive Director, Kansas Nurses Association  
Mr. Tom Bell, Executive Vice President, Kansas Hospital Association  
Mr. Larry Buening, Executive Director, Kansas Board of Healing Arts

Others attending:

See Attached List.

### **Hearing on SB529 - an act concerning physical therapy**

Upon calling the meeting to order, the Chair announced there would be a hearing on SB529 and asked Ms. Correll to give a brief overview. Highlights included:

- amends the act under which physical therapist are regulated;
- the first amendment appears on page 2 of the bill, lines 8 and 9, but beginning with line 5, it says that physical therapist may evaluate patients without a physician referral but may initiate treatment only after consultation with approval by a physician licensed to practice medicine, surgery or a licensed podiatrist, the amendment would add *a licensed physician assistant, an advanced registered nurse practitioner*;
- the second amendment is on page 3, lines 9 and 10, in this instance are actions to make a physical therapist subject to disciplinary action by the Board of Healing Arts and would add to that initiating treatment without prior consultation and approval *by a licensed physician assistant, by an advanced registered nurse practitioner*.

As there were no questions of Ms. Correll, the Chair called on the first proponent, Mr. Jerry Slaughter, Executive Director, Kansas Medical Society (KMS), who stated that KMS, while they have always believed that current law already allows physicians to delegate to PAs and nurse practitioners the ability to authorize physical therapy services, they do not oppose making it clear in the physical therapy practice act. He also stated, they would encourage adding to the bill, an amendment on page 2, line 9, which they believe makes it clearer that physician assistants and nurse practitioners working at the direction or order of a physician are authorized to order physical therapy services. A copy of his testimony and amendment are (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

The next proponent was Mr. Paul Silovsky, PT, Legislative Committee Chair, Kansas Physical Therapy Association, who offered three reasons why further clarification of the authority to delegate is needed (ex. Physical therapy services are delayed when physician approval must be obtained prior to the initiation of treatment by the PT.) He also stated the passage of the bill will improve the speed of access to predetermined PT care, eliminate unnecessary confusion and upset within the current PT referral communications network, make the current medical practice acts consistent with regards to the delegation of physical therapy treatment and allow PT's to accept PA and ARNP referrals without being in violation of the current PT practice act. A copy of his testimony is (Attachment 2) attached hereto and incorporated into the Minutes as referenced.

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The third proponent was Ms. Terry Roberts, Executive Director, Kansas State Nurses Association, who stated there are currently 1837 ARNP's in Kansas and many rural health clinics (167) and critical access hospitals (65, with 6 pending) in Kansas utilize ARNP's (and PA's) exclusively for the provision of primary health care services and the proposed language would remove one practice barrier that currently limits their practice and patients access by requiring a physician-only referral. She also included with her testimony, the Board of Nursing Annual Report page listing the number of ARNP's and the statute that authorizes ARNP practice in Kansas. A copy of her testimony and attachment is ([Attachment 3](#)) attached hereto and incorporated into the Minutes as referenced.

The final proponent to testify was Mr. Tom Bell, Executive Vice President, Kansas Hospital Association, who stated that the Board of Healing Arts has interpreted current Kansas law to prohibit a physician assistant or advanced registered nurse practitioner from providing the necessary consultation and approval resulting in a number of Kansas communities, especially those served by critical access hospitals, PAs and ARNPs are prevented from providing the extent of services probably intended by the Legislature. A copy of his testimony is ([Attachment 4](#)) attached hereto and incorporated into the Minutes as referenced.

Neutral testimony was offered by Mr. Larry Buening, Executive Director, Kansas Board of Healing Arts, who stated that one question raised by these amendments is whether they are intended to supercede the current statutes relating to PAs and allow them to independently order physical therapy without authority from the responsible physician. Further, he stated, the amendments are silent on whether there would be any responsibility on the part of the physical therapist to determine that the PA has appropriate authority to order physical therapy prior to initiating treatment based upon an order from a PA. But he felt these issues might be resolved by amendments to the bill that clearly indicates the PA has been delegated this authority from their responsible physician. A copy of his testimony is ([Attachment 5](#)) attached hereto and incorporated into the Minutes as referenced.

As there were no opponents to the bill, the Chair directed the attention of the Committee to three written testimonies including:

- 1) Mr. Doug Smith, Executive Director for the Kansas Academy of Physician Assistants who wrote that if the PA happens to practice in a separate practice location where the physician may only visit the practice weekly, a delay in treatment of one or two weeks could then result;
- 2) Ms. Joyce Huston, MSN, RN and hospital administrator at Jefferson County Memorial Hospital who stated the bill would facilitate expedient care in rural hospitals;
- 3) Ms. Patricia Plank, Administrator of the Logan County Manor in Oakley who stated their manor serves many frail elders who need quality health care services, including physical therapy and about 40% of their residents receive their primary care from an ARNP. She also stated that allowing the passage of the bill would greatly enhance the quality of their care by streamlining the referral process.

A copy of the above three written testimonies is ([Attachment 6](#)) attached hereto and incorporated into the Minutes as referenced.

The Chair then asked for questions or comments from the Committee. Questions came from Senators Wagle, Barnett, Brownlee, and Salmans ranging from: primary health care, clarify issue of protocol, are there other areas of practice, oversight approval, are their ARNP's practicing (prescribing) independently in any situation in the state, it appears that current language in the practice act now does not allow an ARNP to refer to a physical therapist is this correct, to clarify, with the amendment there would be no change in the ARNP practice, is KSNA agreeable with the language that KMS has brought forth, do ARNPs now have the authority to refer to a PT without the oversight of an M.D. or D.O. and are there other areas of practice where ARNP's do not require this oversight approval, permissive language (ex. working for a neurologist, diabetes), how would you feel if the Committee only adopted the language related to the PAs, clarification - do we want the language that is amendatory, is the question that we need to resolve that nurse practitioners always work under the order or direction of a licensed person that is practicing medicine, if we add ARNP to this, they could prescribe PT services without a physician

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directing it and is this the policy decision we are trying to make (do you want the bill with or without the amendments), clarification - is there written protocol so nurse practitioners can write the prescription or are they sending in on a daily basis or how does this work, and lastly, with the KMS proposed amendment is there a distinction being made between the ARNPs and PAs (do you want both under the direction of a physician) and is this what the "or" accomplishes?

As there were no further questions, the Chair asked the Committee if there were objections to working the bill? Senator Barnett made the motion to move to adopt the language from the Kansas Medical Society on both on page 2 and on page 3. This was seconded by Senator Brownlee. The Chair then asked if there were questions on the amendment.

Senator Salmans asked does this then impose a greater restriction on the PA or is it totally neutral and did they have to have a physician oversight prior to this bill. Senator Haley stated he supports the bill, but for clarification, the way the bill reads there could be some confusion regarding podiatrists, "with approval by a physician licensed to practice medicine and surgery a licensed podiatrist, a licensed physician assistant, or advanced registered nurse practitioner, working pursuant to the order or direction of a person licensed to practice medicine or surgery," in this context, would a licensed podiatrist have to work under the direction of a person licensed to practice medicine or surgery? Mr. Furse stated that the comma after "a licensed physician assistant" would be deleted ( and replacing the word "an," insert the word "or") making it one phrase indicating the limiting factor regarding the PA's or the ARAP's.

As there was no further discussion regarding the amendment, the motion carried. Senator Barnett then made the motion to move the bill favorably as amended. This was seconded by Senator Brungardt and the motion carried.

### **Adjournment**

As there was not further business, the meeting was adjourned. The time was 2:30 p.m.

The next meeting is scheduled for Tuesday, March 9, 2004.