

Approved: February 23, 2012

## MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairperson Brenda Landwehr at 1:30 PM on Monday, January 23, 2012 in Room 784 of the Docking State Office Building.

All members were present except:

Representative Hermanson – Excused  
Representative Mosier – Excused  
Representative Weber - 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  
Jay Hall, Kansas Legislative Research Department  
Joseph Leiker, Kansas Legislative Research Department  
Debbie Bartuccio, Committee Assistant

Conferees appearing before the Committee:

Ron Hein, Legislative Council, Kansas Physical Therapy Association (Attachment 1)  
Pam Palmer, Physical Therapist, Legislative Chair, Kansas Physical Therapy Association (Attachments 2 and 3)  
Daryl Menke, DPT, MCMT, Associate Professor, Kansas City Kansas Community College, Practitioner-Private Physical Therapy Practice, Secretary and Reimbursement Chair – Kansas Physical Therapy Association (Attachment 4)  
Mark Dwyer, PT, MHA, Director of Rehabilitation Services at Olathe Medical Center in Olathe, Kansas (Attachment 5)  
Ron Gaches, Representing Kansas Occupational Therapy Association (Attachment 7)  
Robert Williams, M.S., Executive Director, Kansas Association of Osteopathic Medicine (Attachment 8)  
Deborah Clements, M.D., President, Kansas Academy of Family Physicians (Attachment 9)  
John Kiefhaber, Executive Director, Kansas Chiropractic Association (Attachment 10)  
Dr. Pete Hodges, Kansas Orthopaedic Society (Attachment 11)  
Jerry Farley, President of Washburn University (Attachment 13)  
Doug Girod, M.D., Senior Associate Dean for Clinical Affairs, KU Medical Center (Attachment 14)

Others in attendance:

See attached list.

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### **HB 2159–Physical therapists evaluation and treatment of patients**

Chairperson Landwehr opened the hearing on the bill.

Ron Hein presented testimony in support of the bill. The Kansas Physical Therapy Association requested this bill which would permit the citizens of Kansas to access the services of a Licensed Physical Therapist for treatment of muscular/skeletal issues in addition to their ability to access Licensed Physical Therapists for an evaluation, without having to incur the additional costs of seeking treatment from and receiving a referral from a medical doctor. He stated there has been absolutely no harm resulting from patient self-referral in the multitude of states allowing self-referral nationwide. The proposed patient self-referral legislation is still restricted in that it requires the physician be notified of the Physical Therapist's evaluation within 5 business days and that a physician referral be required if a patient does not demonstrate objective, measurable or functional improvement within 45 days. This bill is a compromise between unrestricted patient self-referral which has worked successfully in 17 states for years, and the current Kansas law, which drives up healthcare costs needlessly, and which requires our citizens to see a physician, and wait to see a physician, before they can seek treatment, and save themselves time and money. (Attachment 1)

Pam Palmer presented testimony in support of the bill. She stated the facts show the proposed legislation is in no way harmful to the public. For example, the public has been able to seek physical therapy services without a physician referral in Nebraska since 1957, in Arizona since 1983, and Colorado since 1988, with fourteen other states also allowing unrestricted patient self-referral. A written statement from HPSO, the largest provider of malpractice insurance for physical therapists in the United States, proves that malpractice claims against physical therapists are no different in Nebraska, Arizona, or Colorado than they are in states without patient self-referral. (Attachment 2) A second document provided was a letter from Michael Loughran, President of Healthcare Providers Service Organization (HPSO), which provides professional liability insurance program, which stated that direct access is not a risk factor nor do they charge a premium differential for physical therapists in direct access states. (Attachment 3)

Daryl Menke provided testimony in support of the bill. He stated access to and cost containment of health care continues to remain at the forefront, both at the national and local levels. This bill provides an opportunity for this Kansas legislative body to move conscientiously and dutifully towards meeting this societal health care need. The speculative arguments by the opponents have consistently been dispelled by authenticated and corroborated data. His testimony included examples of this data. (Attachment 4)

Mark Dwyer provided testimony in support of the bill. He stated this is not a new policy as the majority of states instituted patient self-referral 20-30 years ago and have a combined 453 years of experience with unrestricted patient self-referral to physical therapy services. In those states, there is no record of a safety problem and in none of those states have those laws been repealed.

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It is now more important than ever to provide patients more choice in the health care services they receive. Additional supporting documentation was provided in the testimony. ([Attachment 5](#))

Written testimony only in support of the bill was provided by:  
Dr. Cornelia Daluz, Topeka, Kansas ([Attachment 6](#))

Ron Gaches provided testimony in opposition to the bill. The Kansas Occupational Therapy Association is not against some changes in the patient access provided physical therapists but believes the bill is not the right approach. Their concern is that the authority for continued direct access following an unsuccessful 45 day period of care is too open ended and should provide for some level of physician evaluation. They propose that all of the medical and therapy provider organizations collaborate in a comprehensive review of and modernization of the access laws for the purpose of broadening patient access and improving coordination of care in appropriate areas. ([Attachment 7](#))

Robert Williams provided testimony in opposition to the bill. He stated that after lengthy discussion, the Kansas Association of Osteopathic Medicine came to the conclusion that the bill will disrupt continuity of care, eliminate important safe guards, and possibly delay important treatment. Additionally, health conditions outside of the physical therapist's scope of practice and/or range of knowledge could go undetected and exacerbate a patient's medical condition. ([Attachment 8](#))

Dr. Deborah Clements provided testimony in opposition to the bill. One of the major initiatives of the Kansas Academy of Family Physicians and that of the state of Kansas as well, is the Patient Centered Medical Home (PCMH) which involves primary care-based redesign of a practice to emphasize team-based care and coordination of patient-centered care across the health care spectrum. It has been shown to provide higher quality care at lower cost and they have a pilot in operation in eight practices at this time. While direct access to physical therapy may sound like it would increase patient access, their concern is that it would lead to fragmentation of care and lack of coordination. ([Attachment 9](#))

John Kiefhaber provided testimony in opposition to the bill. The Kansas Chiropractic Association (KCA) cannot support the change in statute proposed, because doctors of chiropractic strongly believe that the healing arts act serves to assure Kansas patients of a proper examination and diagnosis of their health condition before a course of treatment would be started. This statutory control serves to allow practitioners of the healing arts the opportunity to apply their education, training and experience with patients before an ill-designed or inadequate treatment approach could harm a patient. Sometimes it is the lack of adequate diagnosis and treatment that could cause an injury or ailment to get worse if not properly diagnosed. KCA has not seen any information that would lead them to believe that Kansans are not receiving the physical therapy services they need under the current system of doctor referrals. ([Attachment 10](#))

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Dr. Pete Hodges provided testimony in opposition to the bill. The Kansas Orthopaedic Society believes surgeons work closely with physical therapists on a regular basis and the public benefits from the professional collaboration as it currently exists with a physician providing diagnosis and continuity in patient care throughout the treatment. To depart so radically from current law and practice, suddenly allowing a physical therapist to diagnose and initiate treatment without the involvement and supervision of a physician, is major departure from the well established and safe model of health care delivery Kansans currently benefit from. ([Attachment 11](#))

Written testimony only in opposition to the bill was submitted by:  
Jerry Slaughter, Kansas Medical Society ([Attachment 12](#))

There was no verbal or written testimony submitted neutral to the bill.

At the conclusion of a question/answer session, Chairperson Landwehr closed the hearing on the bill.

### **HB 2490–Doctor of nursing practice degrees at Washburn university**

Jerry Farley presented testimony in support of the bill. Since 2005 Washburn University has offered a Master's degree for nurses in northeastern Kansas. The Master's program has three tracks, including adult nurse practitioner, family nurse practitioner and clinical nurse leader. Today's request reflects the changing educational standards required by the national accreditation organization. By including the words, doctor of nursing practice, to K.S.A 72-6508, Washburn can continue to offer needed programs for nurse practitioner preparation. ([Attachment 13](#))

There was no written testimony submitted in support of the bill. There was no written or verbal testimony submitted in opposition or neutral to the bill.

At the conclusion of a question/answer session, Chairperson Landwehr closed the hearing on the bill.

### **HB 2428–Health care providers; including the university of Kansas medical center for purposes of peer review**

Chairperson Landwehr opened the hearing on the bill.

Dr. Doug Girod presented testimony in support of the bill. On September 16, 2011, the leaders of the University of Kansas Medical Center, The University of Kansas Hospital, and the University of Kansas Physicians, Inc. wrote to the Kansas Board of Regents in support of this amendment. It would correct a technical oversight from 1998, when the University of Kansas Hospital Authority was established as a legal entity separate from the University of Kansas

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Medical Center (KUMC), owning and operating the University of Kansas Hospital. To ensure the highest quality of care from faculty and residents, KUMC is seeking a statutory definition that, for purposes of quality assurance only, it can obtain these records from and engage in productive discussion about them with their clinical partners, the University of Kansas Hospital and the University of Kansas Physicians, Inc. (Attachment 14)

Written testimony only in support of the bill was submitted by:

Mary Jane Stankiewicz, Director of Government Relations and Communications, Kansas Board of Regents (Attachment 15)

There was no written or verbal testimony submitted in opposition or neutral to the bill.

At the conclusion of a question/answer session, Chairperson Landwehr closed the hearing on the bill.

Chairperson Landwehr asked if there were any bill introductions.

Representative Crum made a motion to introduce a bill that would update the Kansas optometry law. The motion was seconded by Representative Mast.

The meeting was adjourned at 3:00 p.m.

The next meeting is scheduled for January 24, 2012.