

HEIN LAW FIRM, CHARTERED

5845 SW 29th Street, Topeka, KS 66614-2462

Phone: (785) 273-1441

Fax: (785) 273-9243

Ronald R. Hein

Attorney-at-Law

Email: rhein@heinlaw.com

www.heinlaw.com

Testimony Re: HB 2159
House Health and Human Services Committee
Presented by Ronald R. Hein on behalf of
Kansas Physical Therapy Association
January 23, 2012

Madam Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Physical Therapy Association. The Kansas Physical Therapy Association (KPTA) is a 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 80,000 members.

KPTA requested introduction of and supports passage of HB 2159, 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 first seeking treatment from and receiving a referral from an M.D., a D.C., a D.O. or any of the other practitioners currently listed in K.S.A. 65-2921.

We presented this bill last year to this committee to introduce this subject to the legislature, and requested no action be taken, in order to meet with the concerned groups over the interim. At that time, predictably, the legislation was opposed by the Kansas Medical Society, the Kansas Association of Osteopathic Medicine, and the Kansas Chiropractic Association. Knowing full well how this committee, and Chairman Landwehr feels about groups trying to work out disputes themselves, rather than relying on the committee making a decision about a healthcare judgment, we met with all three groups this past summer/fall.

The KPTA pointed out that this bill is a compromise approach to unrestricted patient self-referral which is permitted in 17 states, and that this bill merely puts Kansas into the middle of the pack with regards to states laws regarding patient self-referral for PT treatment.

We also presented irrefutable evidence to the three groups that no harm has resulted in the multitude of 17 states that permit unrestricted patient self-referral or in the 18 states which permit greater patient self-referral, but not totally unrestricted patient self referral.

The three groups respectfully listened to our presentation, and subsequently I contacted all three to determine what their response would be. One responded by indicating they were going to oppose the legislation again. I have since learned the other two will oppose us again this year.

But most importantly, **NONE** of the three groups responded to our evidence. They oppose the bill, but have offered no refutation to our evidence or studies. We presented evidence of a PT's extensive education and training, with current law requiring a Doctoral degree in physical therapy. We provided significant studies showing that PT's can provide the same or greater level of diagnosis of muscular/skeletal problems than can most medical providers other than specifically Orthopaedic Surgeons. We also provided studies indicating costs savings from greater utilization of physical therapy rather than other diagnostic and/or treatment modalities. Lastly, we challenged the three groups to contact their colleagues in other states which permit patient self-referral and identify for their own knowledge that there have been **NO**, absolutely **NO** problems in those states for the scores of years where patient self-referral has worked, and worked admirably.

And in the end, **NONE of the three provided ANY refutation to the EVIDENCE or STUDIES that we provided them.** They simply are opposing this legislation again.

Their opposition stems from opinion based upon speculation, and they lack any studies of evidence to support their position.

In at least 35 states in the United States, patients have greater patient self-referral ability than they do in Kansas. Kansas is at the bottom of the states in allowing our citizens the freedom to have self-referral to physical therapists.

There has been absolutely **NO HARM** resulting from patient self-referral, which this legislation proposes, in the multitude of states allowing self-referral nationwide. We are not proposing **unrestricted patient self-referral, which 17 states permit.** Instead, we are proposing to this committee a compromise. Our proposed patient self-referral legislation is still restricted. This bill requires that the physician be notified of the PT 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** the 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 your citizens to see a physician, and **WAIT** to see a physician, before they can seek treatment, and save themselves time and money.

The protection for the patient begins with the vast degree of knowledge, education, and training of the physical therapist, which is well recognized, acknowledged, and not refuted by our opponents; and, the requirement that the physician be notified, so the physician can review the patient and the situation if he or she feels that the patient might have another issue which needs addressing. This provision insures that the physician will NOT be in the dark at any time.

This legislature hears issues all of the time, with competing arguments. But generally the arguments for or against an issue entail the groups advocating for or against legislation presenting facts, evidence, studies to the legislature. Here, the KPTA is presenting the facts, the studies, the healthcare costs savings studies, the fact that there has been no harm in the practical world study of the numerous states who have recognized the rights of their citizens to seek treatment with a PT.

Our opponents will say this bill is bad and that the public will be exposed to harm some how, but they will have no studies to document such harm in the multitude of other states where this law has been in place for scores of years, no evidence challenging our costs savings studies, and no evidence of any threat to the health of Kansas citizenry.

What they have is their political clout, and their simple opposition to the bill. Much like the Kansas Medical Society opposed legislation permitting Advanced Registered Nurse Practitioners, back when I was in the Legislature, and today physicians would not be able to live without them, this is another case of opposition based on a unwarranted fear.

I would beg this committee to ask our opponents the following questions:

Where are their studies of documented harm in other states?

Where is the outcry by physicians in other states to their laws which permit patient self-referral?

Where are the efforts by physicians or other health groups to repeal the laws in the 17 states with unrestricted patient self-referral due to harm to the public?

I would ask this committee to pass HB 2159 and to permit the citizens of Kansas to assist the state in reducing healthcare costs, in reducing wait time to seek treatment, and in eliminating needless duplication in our healthcare system.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.