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Testimony re: HB 2046
House Health and Human Services Committee
Presented by Ronald R. Hein
on behalf of
Kansas Association of Nurse Anesthetists
January 30, 2017

Mister Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Association of Nurse Anesthetists (KANA).

Kansas law sets a process for health care professionals seeking recognition from the state by being licensed or otherwise protected by the state. This act had been on the books for years, and virtually every health care professional group has gone through this process prior to being recognized by the state of Kansas. Groups that have recently gone through the credentialing process include acupuncturists and massage therapists. Being approved by the Secretary of KDHE does NOT guarantee that a group will be licensed, but generally groups are not licensed without going through the credentialing process. The process provides that the Secretary of the Kansas Department of Health and Environment appoint a study committee, called a technical committee, to determine if 8 statutory criteria are met in order for the professionals to be recognized by the state. The criteria includes findings to insure that no harm occurs to the public.

The Kansas Act on Credentialing, specifically K.S.A. 65-5002, provides “Health care personnel seeking to be credentialed shall submit a credentialing application to the secretary [of Kansas Department of Health and Environment”.

K.S.A. 65-5006 sets out the criteria that all health care professionals seeking credentialing by the state MUST meet in order to be approved by the state. Specifically, K.S.A. 65-5006(a)(8) provides: “the effect of credentialing of the occupation or profession on the scope of practice of other health care personnel, whether or not credentialed under state law, is minimal”.

Finally, K.S.A. 65-5006(b) provides “No report of the technical committee or the secretary shall recommend credentialing of any occupational or professional group of health care personnel unless all the criteria set forth in subsection (a) have been met”.

I acknowledge that a past legislature cannot prohibit a future legislature from adopting any legislation such future legislature desires to enact, and thus that it is possible for you to consider this legislation even though the AA’s did not go through the credentialing process. However, it has

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generally been the policy of the legislature to require all health care professionals to go through the credentialing process prior to seeking licensure.

For some reason, the Anesthesiology Assistants chose not to go through the credentialing process established by state law prior to seeking this legislation. I would question whether the AA's would be able to meet the criteria set out in K.S.A. 65-5006, and specifically, not the criteria set out in K.S.A. 65-5006(a)(8) regarding negative impact to other providers, as set out above.

This committee should not consider this legislation until the AA's have gone through the KDHE credentialing process.

I also would like to point out that HB 2046 does not establish any minimal educational requirements for persons to be licensed as an Anesthesiology Assistant. This is unusual for the elected legislature to have no say on what the minimum educational requirements should be in order to protect the public, and to let a non elected board decide what the educational standards should be.

HB 2046 also provides that AA's can be supervised by a responsible physician. In the few states that do recognize AA's, they can only work under the supervision of an on-site anesthesiologist. HB 2046 includes reference to AA's being required to be supervised by an anesthesiologist, but there are also numerous references to being supervised by a "responsible physician". We question why the bill refers to AA's being supervised by any physician who is merely responsible (which is not defined by the bill) and whether that would provide appropriate protection for the public.

On behalf of the Kansas Association of Nurse Anesthetists, I urge this committee to defeat HB 2046.

Thank you for allowing me to testify and I would be happy to yield for any questions.

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65-5001. Credentialing health care personnel; definitions. As used in this act unless the context requires otherwise, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Credentialing" or "credentialed" means the formal recognition of professional or technical competence through the process of registration, licensure or other statutory regulation.

(b) "Certification" means the process by which a nongovernmental agency or association or the federal government grants recognition to an individual who has met certain predetermined qualifications specified by the nongovernmental agency or association or the federal government.

(c) "Registration" means the process by which the state identifies and lists on an official roster those persons who meet predetermined qualifications and who will be the only persons permitted to use a designated title.

(d) "Licensure" means a method of regulation by which the state grants permission to persons who meet predetermined qualifications to engage in an occupation or profession, and that to engage in such occupation or profession without a license is unlawful.

(e) "Health care personnel" means those persons whose principal functions, customarily performed for remuneration, are to render services, directly or indirectly, to individuals for the purpose of:

- (1) Preventing physical, mental or emotional illness;
 - (2) detecting, diagnosing and treating illness;
 - (3) facilitating recovery from illness; or
 - (4) providing rehabilitative or continuing care following illness; and who are qualified by training, education or experience to do so.
- (f) "Provider of health care" means an individual:

(1) Who is a direct provider of health care (including, but not limited to, a person licensed to practice medicine and surgery, licensed dentist, registered professional nurse, licensed practical nurse, licensed podiatrist, or physician assistant) in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions (including medical care facilities, long-term care facilities, outpatient facilities, and health maintenance organizations) in which such care is provided and, when required by state law, the individual has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration;

(2) who holds a fiduciary position with, or has a fiduciary interest in, any entity described in subsection (f)(3)(B) or subsection (f)(3)(D) other than an entity described in either such subsection which is also an entity described in section 501(c)(3) of the internal revenue code of 1954, as amended and supplemented, and which does not have as its primary purpose the delivery of health care, the conduct of research, the conduct of instruction for health professionals or the production of drugs or articles described in subsection (f)(3)(C);

(3) who receives, either directly or through a spouse, more than 1/5 of such person's gross annual income from any one or combination of the following:

- (A) Fees or other compensation for research into or instruction in the provision of health care;
 - (B) entities engaged in the provision of health care or in such research or instruction;
 - (C) producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care; or
 - (D) entities engaged in producing drugs or such other articles;
- (4) who is a member of the immediate family of an individual described in subsection (f)(1), (f)(2) or (f)(3); or
- (5) who is engaged in issuing any policy or contract of individual or group health insurance or hospital or medical service benefits.

An individual shall not be considered a provider of health care solely because the individual is a member of the governing board of an entity described in subsection (f)(3)(B) or subsection (f)(3)(D).

- (g) "Consumer of health care" means an individual who is not a provider of health care.
- (h) "Secretary" means the secretary of health and environment.

History: L. 1980, ch. 181, § 1; L. 1986, ch. 246, § 1; L. 1987, ch. 232, § 2; L. 1988, ch. 246, § 22; L. 2004, ch. 117, § 8; July 1.

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65-5002. Same; credentialing applications; fees. (a) Health care personnel seeking to be credentialed by the state shall submit a credentialing application to the secretary upon forms approved by the secretary. The application shall be accompanied by an application fee of \$1,000. The secretary shall not accept a credentialing application unless such application is accompanied by the application fee and is signed by 100 or more Kansas resident proponents of credentialing the health care occupation or profession seeking to be credentialed. All credentialing applications accepted by the secretary shall be referred to the technical committee for review and recommendation in accordance with the provisions of this act and rules and regulations adopted by the secretary. The application fee established under this subsection (a) shall apply to every group of health care personnel which submits a credentialing application to the secretary on and after the effective date of this act and to every group of health care personnel which has not filed both a notice of intention and a fully answered application before the effective date of this act.

(b) The secretary shall remit all moneys received from fees under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

History: L. 1980, ch. 181, § 2; L. 1986, ch. 246, § 2; L. 1987, ch. 232, § 3; L. 2001, ch. 5, § 260; July 1.

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65-5006. Same; credentialing criteria. (a) The technical committee appointed pursuant to K.S.A. 65-5003 and amendments thereto and the secretary shall apply the following criteria to each credentialing application:

(1) The unregulated practice of the occupation or profession can harm or endanger the health, safety or welfare of the public and the potential for such harm is recognizable and not remote;

(2) the practice of the occupation or profession requires an identifiable body of knowledge or proficiency in procedures, or both, acquired through a formal period of advanced study or training, and the public needs and will benefit by assurances of initial and continuing occupational or professional ability;

(3) if the practice of the occupation or profession is performed, for the most part, under the direction of other health care personnel or inpatient facilities providing health care services, such arrangement is not adequate to protect the public from persons performing noncredentialed functions and procedures;

(4) the public is not effectively protected from harm by certification of members of the occupation or profession or by means other than credentialing;

(5) the effect of credentialing of the occupation or profession on the cost of health care to the public is minimal;

(6) the effect of credentialing of the occupation or profession on the availability of health care personnel providing services provided by such occupation or profession is minimal;

(7) the scope of practice of the occupation or profession is identifiable;

(8) the effect of credentialing of the occupation or profession on the scope of practice of other health care personnel, whether or not credentialed under state law, is minimal; and

(9) nationally recognized standards of education or training exist for the practice of the occupation or profession and are identifiable.

(b) Reports of the technical committee, and the secretary shall include specific findings on the criteria set forth in subsection (a). No report of the technical committee or the secretary shall recommend credentialing of any occupational or professional group of health care personnel unless all the criteria set forth in subsection (a) have been met.

History: L. 1980, ch. 181, § 6; L. 1986, ch. 246, § 6; L. 1987, ch. 232, § 6; July 1.

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